

PROPOSED RULEMAKING

STATE BOARD OF MEDICINE

[49 PA. CODE CHS. 16 AND 18]

Physician Assistants and Respiratory Therapists

The State Board of Medicine (Board) proposes to amend §§ 16.11, 16.13, 18.145 and 18.301, 18.302, 18.304—18.309, 18.309a, 18.309b and 18.310 and add § 18.146 (relating to professional liability insurance coverage for licensed physician assistants) to read as set forth in Annex A.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under sections 8, 8.1, 13(c) and 13.1(c) of the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.8, 422.8a, 422.13(c) and 422.13a(c)).

Background and Need for the Amendment

The act of July 4, 2008 (P. L. 580, No. 45) (Act 45) amended the act in a number of ways. Act 45 changed certification of respiratory care practitioners to licensure of respiratory therapists. It revised the standards for licensure as a respiratory therapist and for receiving a temporary permit to practice prior to sitting for the licensure examination. Act 45 also identified additional specific acts of practice in which physician assistants may engage and required physician assistants to complete continuing education and to maintain professional liability insurance. This proposed rulemaking would amend the Board's regulations to implement Act 45.

Description of the Proposed Amendments

With regard to respiratory therapists, the proposed rulemaking would add to § 16.11(b) (relating to licenses, certificates and registrations) a reference to "respiratory therapist license" and change the reference in § 16.13(g) (relating to licensure, certification, examination and registration fees) from "respiratory care practitioner certificate" to "respiratory therapist license." Similarly, throughout Chapter 18, Subchapter F (relating to respiratory therapists), the proposed rulemaking would replace terms referring to the certification of respiratory care practitioners with references to the licensure of respiratory therapists, both in the headings of the sections and in the text.

For additional clarity, the Board proposes to replace the reference in § 18.307(1)(i) (relating to criteria for licensure as a respiratory therapist) from passing the "CRTT" to passing the "credentialing examination" as determined by the National Board for Respiratory Care (NBRC). Because section 13.1(a.2) of the act prohibits an individual not licensed as a respiratory therapist from using the title "licensed respiratory therapist" or the designations "LRT" or "RT," the proposed rulemaking would amend § 18.304(b) (relating to licensure of respiratory therapists; practice; exceptions) to prohibit unlicensed persons from using the title "licensed respiratory therapist" or the designations "LRT" or "RT" in addition to using the words "licensed respiratory care practitioner" or "respiratory care practitioner" or using the letters "RCP" or similar words or related abbreviations to suggest licensure.

The proposed rulemaking would amend § 18.305(a) and (b) (relating to functions of respiratory therapists) to provide that a respiratory therapist may provide services upon referral of a certified registered nurse practitioner or physician assistant, in addition to referral of a physician, as provided in section 13.1(d) of the act.

Because section 13.1(a) of the act sets as a standard for licensure graduation from a program approved by the Committee on Accreditation for Respiratory Care (CoARC), the proposed rulemaking would amend § 18.307(1)(i) to require graduation from a program approved by CoARC, rather than the Joint Review Committee on Respiratory Therapy Education (JRCRTE) and would replace the definition in § 18.302 (relating to definitions). Similarly, the proposed rulemaking would amend § 18.306 (relating to temporary permits) to require that an applicant for a temporary permit shall graduate from a program approved by CoARC rather than JRCRTE.

Because section 13.1(a) of the act sets as the only criteria for licensure as a respiratory therapist either graduation from a respiratory care program approved by CoARC or existing licensure in another state by examination, the proposed rulemaking would also amend § 18.307 to delete the alternative criteria of being credentialed as a certified respiratory therapy technician or registered respiratory therapist and having continuously provided respiratory care services for a minimum of 12 months in current paragraph (1)(ii) and (iv). Similarly, section 36.1(b) of the act (63 P. S. § 422.36a(b)) has been amended to delete the following alternative requirements for a temporary permit: designation as a certified respiratory therapist or registered respiratory therapist by a National credentialing agency; continuous provision of respiratory care services for at least 12 months; and holding certification, licensure or registration as a respiratory care practitioner in another state. Instead, section 36.1 of the act provides for recognition as a credentialed respiratory therapist as approved by the Board. Therefore, the proposed rulemaking would amend § 18.306(a) to provide that a temporary permit will be issued to an applicant who is recognized as a credentialed respiratory therapist by the NBRC, which credentials respiratory therapists. Additionally, because the licensing boards of the Bureau of Professional and Occupational Affairs now accept payment by credit card for online application and may extend other payment options in the future, the Board proposes to amend § 18.307(2) to require payment of the fee "in a form acceptable to the Board."

Because Act 45 amended section 36.1(f)(2) of the act to increase the continuing education requirement from 20 to 30 hours each biennial renewal period, the proposed rulemaking would amend § 18.309a(a)(1) (relating to requirement of continuing education) to increase that requirement to 30 hours. Section 18.309a(a)(2) requires that at least 10 hours of continuing education be obtained through classroom lecture or other live session and § 18.309a(a)(3) prohibits crediting more than 10 hours of continuing education obtained through Internet presentations, journal review, prerecorded video or similar means of nontraditional education. In drafting the proposed rulemaking, the Board considered adjusting these credit limitations to respond to the increased total continuing education requirement or, as suggested by the Pennsylvania Society for Respiratory Care, replacing the hour limitation with a percentage. Instead, the Board deter-

mined that it should maintain the requirement in § 18.309a(a)(2) that at least 10 hours be earned in the more traditional types of education and delete the requirement in § 18.309a(a)(3) that no more than 10 hours may be earned in the less traditional types. However, the Board proposes to retain the requirement in § 18.309a(a)(3) that the provider of continuing education through these less traditional means makes available documented verification of completion of the course or program.

Additionally, because Act 45 amended section 36.1(f)(6) of the act to prohibit credit for courses in practice building as well as in office management, the proposed rulemaking would amend § 18.309b(c) (relating to approved educational courses) to prohibit credit for courses in practice building (rather than financial procedures) as well as office management. Additionally, because licensees could complete the entire amount of required continuing education through education in cardiac life support, the Board would add § 18.309a(a)(5) to prohibit credit for basic cardiac life support courses and permit no more than 8 hours during each biennial renewal period of credit in advanced cardiac life support. The Board also proposes to add § 18.309a(a)(6) to prohibit credit for the same continuing education more than once in a biennium. Finally, in reviewing its existing regulations in light of Act 45, the Board noticed a clarity issue in the recordkeeping requirement in § 18.309a(d) which requires a licensee to maintain proof of continuing education for “2 years from the commencement of the biennial renewal period to which the continuing education applies.” This language could be construed as either the biennial renewal period in which the continuing education was completed or the subsequent renewal period for which the license was renewed. Accordingly, to clarify this issue and to permit the Board adequate time in which to audit licensees for compliance, the Board would amend this subsection to require that a licensee maintain proof of continuing education, or documentation of a waiver granted, for at least 2 years after the conclusion of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or the date the waiver was granted, whichever is latest.

For physician assistants, the proposed rulemaking would amend § 18.145(c) (relating to biennial registration requirements; renewal of physician assistant license) and add § 18.146. The proposed rulemaking would amend § 18.145(c) to require that as a condition for renewal physician assistants complete continuing education as required by the National Commission on Certification of Physician Assistants (NCCPA) as required under section 36(d) of the act (63 P. S. § 422.36(d)). Because physician assistants are also required under § 18.145(c) to maintain National certification, and that certification may not be renewed without completing the continuing education requirements, the Board has not proposed additional requirements for continuing education as a condition of licensure renewal. Additionally, the Board proposes to amend this section to clarify that it recognizes certification through NCCPA and any other National organization for which the Board publishes recognition of the organization’s certification as meeting the requirement of National certification.

Also for physician assistants, the proposed rulemaking would add § 18.146(a) to require physician assistants to maintain professional liability insurance as required under section 36(f) of the act and proposed § 18.146(d) would prohibit a physician assistant who does not have

professional liability insurance from practicing. Under § 18.146(b), a physician assistant could provide proof of insurance through a certificate of insurance or a copy of the declaration page from the insurance policy setting forth the effective date, expiration date and dollar amounts of coverage or the physician assistant could provide proof of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans). Section 36(f)(2) of the act provides that a physician assistant applicant may file a copy of a letter from a professional liability insurance carrier indicating that the applicant will be covered against professional liability in the required amounts effective upon issuance of the applicant’s license to practice but that the new licensee has 30 days to submit to the Board proof of insurance. To enforce this provision, proposed § 18.146(c) would provide that failure to provide this proof within the 30-day time period will result in the license becoming inactive as a matter of law. A licensee may not practice on an inactive license. Inactivation of the license is not considered disciplinary action.

Amendments were not necessary to implement all of the provisions of Act 45. The Board has not proposed amendments to its regulations to implement section 13.1(b) of the act, which provides that for 2 years after the effective date of Act 45, the Board may license without examination an applicant who is currently licensed by the Board or the State Board of Osteopathic Medicine and has otherwise met the new statutory requirements for licensure as a respiratory therapist. Amendments are not needed because this provision is self-executing. Also, because § 18.309a(a)(4) already requires a respiratory therapist renewing after December 31, 2008, to complete at least 1 hour of continuing education in medical ethics and at least 1 hour in patient safety, amendments are not needed to implement the amendments to section 36.1(f)(2) of the act. Similarly, because § 18.309a(c) provides that the Board may waive the continuing education requirement for serious illness or other hardship or military service upon timely written request with adequate supporting documentation, the Board found it unnecessary to propose amendments to implement section 36.1(f)(4) of the act. Finally, the Board has not proposed amendments to its regulations to implement section 13(c.1) and (c.2) of the act, as added by Act 45, because this section is self-executing and the existing regulations do not explicitly prohibit these acts of medical practice by a physician assistant.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 2, 2012, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate

Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference No. 16A-4930 (Physician Assistant and Respiratory Therapist), when submitting comments.

JAMES W. FREEMAN, M.D.,
Chairperson

Fiscal Note: 16A-4930. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS
Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS

§ 16.11. Licenses, certificates and registrations.

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(b) The following nonmedical doctor licenses and certificates are issued by the Board:

* * * * *

(5) Practitioner of Oriental medicine license.

(6) Respiratory therapist license.

(c) The following registrations are issued by the Board:

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§ 16.13. Licensure, certification, examination and registration fees.

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(g) Respiratory [Care Practitioner Certificate] Therapist License:

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CHAPTER 18. STATE BOARD OF MEDICINE—PRACTITIONERS OTHER THAN MEDICAL DOCTORS

Subchapter D. PHYSICIAN ASSISTANTS LICENSURE OF PHYSICIAN ASSISTANTS AND REGISTRATION OF SUPERVISING PHYSICIANS

§ 18.145. Biennial registration requirements; renewal of physician assistant license.

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(c) To be eligible for renewal of a physician assistant license, the physician assistant shall complete continuing medical education as required under the National Commission on Certification of Physician Assistants (NCCPA) and maintain National certification by completing current recertification mechanisms available to the profession and recognized by the Board. The Board recognizes certification through NCCPA and its successor organizations and certification through any other National organization for which the Board publishes recognition of the organization's certification of physician assistants.

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(Editor's Note: Section 18.146 is new and printed in regular type to enhance readability.)

§ 18.146. Professional liability insurance coverage for licensed physician assistants.

(a) A licensed physician assistant shall maintain a level of professional liability insurance coverage as required under section 36(f) of the act (63 P. S. § 422.36(f)).

(b) Proof of professional liability insurance coverage may include:

(1) A certificate of insurance or copy of the declaration page from the applicable insurance policy setting forth the effective date, expiration date and dollar amounts of coverage.

(2) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(c) A license that was issued in reliance upon a letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability effective upon the issuance of the applicant's license as permitted under section 36(f)(2) of the act will become inactive as a matter of law 30 days after issuance of the license if the licensee has not provided proof of professional liability insurance coverage and will remain inactive until the licensee provides proof of insurance coverage.

(d) A licensee who does not have professional liability insurance coverage as required under section 36(f) of the act may not practice as a physician assistant in this Commonwealth.

Subchapter F. RESPIRATORY [CARE PRACTITIONERS] THERAPISTS

§ 18.301. Purpose.

This subchapter implements sections 13.1 and 36.1 of the act (63 P. S. §§ 422.13a and 422.36a), which were added by section 3 of the act of July 2, 1993 (P. L. 424, No. 60) to provide for the [certification] licensure of respiratory [care practitioners] therapists.

§ 18.302. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act—The Medical Practice Act of 1985 (63 P. S. § § 422.1—422.45 [.]).

CoARC—The Committee on Accreditation for Respiratory Care, an organization which accredits respiratory care programs.

[CRTT—The Certification Examination For Entry Level Respiratory Therapy Practitioners, a National uniform examination developed and administered by the NBRC for certified respiratory care therapy practitioners.]

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[JRCRTE—The Joint Review Committee on Respiratory Therapy Education, which accredits respiratory care programs.]

NBRC—The National Board for Respiratory Care, the agency recognized by the Board to credential respiratory [care practitioners] therapists.

Respiratory [care practitioner] therapist—A person who has been [certified] licensed in accordance with the act and this subchapter.

§ 18.304. **[Certification] Licensure of respiratory [care practitioners] therapists; practice; exceptions.**

(a) A person may not practice or hold himself out as being able to practice as a respiratory **[care practitioner] therapist** in this Commonwealth unless the person holds a valid, current temporary permit or **[certificate] license** issued by the Board, or the State Board of Osteopathic Medicine under Chapter 25 (relating to State Board of Osteopathic Medicine), or is exempted under section 13.1(e) of the act (63 P. S. § 422.13a(e)) or section 10.1(e) of the Osteopathic Medical Practice Act (63 P. S. § 271.10a(e)).

(b) A person may not use the words **“licensed respiratory therapist”** or “respiratory care practitioner,” the letters **[“R.C.P.”] “LRT,” “RT” or “RCP”** or similar words and related abbreviations to imply that respiratory care services are being provided, unless the services are provided by a respiratory **[care practitioner] therapist** who holds a valid, current temporary permit or **[certificate] license** issued by the Board or the State Board of Osteopathic Medicine and only while working under the supervision of a licensed physician.

§ 18.305. **Functions of respiratory [care practitioners] therapists.**

(a) Under section 13.1(d) of the act (63 P. S. § 422.13a(d)), a respiratory **[care practitioner] therapist** may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine, upon **[physician] prescription or referral by a physician, certified registered nurse practitioner or physician assistant**, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services such as consultation or evaluation of an individual and also includes, but is not limited to, the following services:

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(b) Under section 13.1(d) of the act, a respiratory **[care practitioner] therapist** may perform the activities listed in subsection (a) only upon **[physician]**

prescription or referral by a physician, certified registered nurse practitioner or physician assistant or while under medical direction consistent with standing orders or protocols in an institution or health care facility.

§ 18.306. **Temporary permits.**

(a) A temporary permit will be issued to an applicant who submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(1) Has graduated from a respiratory care program approved by **[the JRCRTE] CoARC.**

(2) Is enrolled in a respiratory care program approved by **[the JRCRTE] CoARC** and expects to graduate within 30 days of the date of application to the Board for a temporary permit.

(3) **[Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993] Meets all applicable requirements and is recognized as a credentialed respiratory therapist by the NBRC.**

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§ 18.307. **Criteria for [certification] licensure as a respiratory [care practitioner] therapist.**

The Board will approve for **[certification] licensure** as a respiratory **[care practitioner] therapist** an applicant who:

(1) Submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by **[the JRCRTE] CoARC** and passed the **[CRTT] credentialing examination** as determined by the NBRC.

(ii) **[Has been credentialed as a Certified Respiratory Therapy Technician or Registered Respiratory Therapist by the NBRC.**

(iii) **] Holds a valid license, certificate or registration as a respiratory [care practitioner] therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially the same as those required by the Commonwealth, including the examination requirement.**

[(iv) Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993, and has passed the CRTT as determined by the NBRC.]

(2) Has paid the appropriate fee in **[the form of a check or money order] a form acceptable to the Board.**

§ 18.308. **Change of name or address.**

A **[certificateholder] licensee** shall inform the Board in writing within 10 days of a change of name or mailing address.

§ 18.309. **Renewal of [certification] licensure.**

(a) A **[certification] license** issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

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(c) To retain the right to engage in practice, the [certificateholder] licensee shall renew [certification] licensure in the manner prescribed by the Board, complete the continuing education requirement set forth in § 18.309a (relating to requirement of continuing education) and pay the required fee prior to the expiration of the current biennium.

(d) When a [certification] license is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

§ 18.309a. Requirement of continuing education.

(a) The following continuing education requirements shall be completed each biennial cycle[, commencing with the biennial period ending December 31, 2006]:

(1) An applicant for biennial renewal or reactivation of [certification] licensure is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of [20] 30 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P. S. § [422.36.1(f)] 422.36a(f)(2)).

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(3) [No more than 10] For continuing education [hours may be] obtained through Internet presentations, journal review programs, prerecorded video presentations or similar means of nontraditional education[. To] to qualify for credit, the provider shall make available documented verification of completion of the course or program.

(4) Commencing with the biennial period ending December 31, 2008, 1 continuing education hour shall be completed in medical ethics, and 1 continuing education hour shall be completed in patient safety.

(5) Credit will not be given for continuing education in basic life support, including basic cardiac life support and cardiopulmonary resuscitation. In any given biennial renewal period, a licensee may receive credit for no more than 8 continuing education hours in advanced life support, including advanced cardiac life support, neonatal advanced life support/neonatal resuscitation and pediatric advanced life support.

(6) A licensee may not receive continuing education credit for participating in a continuing education activity with objectives and content identical to those of another continuing education activity within the same biennial renewal period for which credit was granted.

(b) An individual applying for the first time for [certification] licensure is exempt from the continuing education requirement for the biennial renewal period following initial [certification] licensure.

(c) The Board may waive all or a portion of the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each [certificateholder] licensee who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The request must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why the

[certificateholder] licensee is unable to comply with the continuing education requirement. The Board will grant, deny or grant in part the request for waiver and will send the [certificateholder] licensee written notification of its approval or denial in whole or in part of the request. A [certificateholder] licensee who requests a waiver may not practice as a respiratory [care practitioner] therapist after the expiration of the [certificateholder's] licensee's current [certificate] license until the Board grants the waiver request.

(d) A [certificateholder] licensee shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for at least 2 years [from the commencement] after the conclusion of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or grant of the waiver, whichever is latest, and provide the information and documentation to representatives of the Board upon request.

§ 18.309b. Approved educational courses.

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(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits is also approved for continuing education credit by the Board. Advanced course work is any course work beyond the academic requirements necessary for [certification] licensure as a respiratory [care practitioner] therapist. Proof of completion of the academic credits shall be submitted to the Board for determination of number of continuing education hours completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management [and financial procedures] or practice building.

§ 18.310. Inactive status.

(a) A [certificateholder] licensee who does not intend to practice in this Commonwealth and who does not desire to renew [certification] licensure shall inform the Board in writing. Written confirmation of inactive status will be forwarded to the [certificateholder] licensee.

(b) A [certificateholder] licensee shall notify the Board, in writing, of [his] the licensee's desire to reactivate the [registration] license.

(c) A [certificateholder] licensee who is applying to return to active status is required to pay fees which are due for the current biennium and submit a sworn statement stating the period of time during which the [certificateholder] licensee was not engaged in practice in this Commonwealth.

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[Pa.B. Doc. No. 12-829. Filed for public inspection May 11, 2012, 9:00 a.m.]

STATE BOARD OF OSTEOPATHIC MEDICINE

[49 PA. CODE CH. 25]

Physician Assistants and Respiratory Therapists

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.141, 25.142, 25.161, 25.163, 25.176, 25.191, 25.192, 25.201, 25.215, 25.231, 25.501—25.509, 25.509a, 25.509b and 25.510 and add § 25.164 (relating to professional liability insurance coverage for licensed physician assistants) to read as set forth in Annex A.

Effective Date

The amendments will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under sections 10(h), 10.1(c), 10.2(f) and 16 of the Osteopathic Medical Practice Act (act) (63 P. S. §§ 271.10(h), 271.10a(c), 271.10b(f) and 271.16).

Background and Need for the Amendment

The act of July 4, 2008 (P. L. 589, No. 46) (Act 46) amended the act in a number of ways. Act 46 changed certification of respiratory care practitioners to licensure of respiratory therapists. It revised the standards for licensure as a respiratory therapist and for receiving a temporary permit to practice prior to sitting for the licensure examination. Act 46 also identified additional specific acts of practice in which physician assistants may engage and required physician assistants to complete continuing education and to maintain professional liability insurance. Additionally, the act of July 2, 2004 (P. L. 486, No. 56) (Act 56) amended section 10(f) of the act to provide that the Board grants licensure, rather than certification, to physician assistants. This proposed rulemaking would amend the Board's regulations to implement the changes of Act 56 and Act 46.

Description of the Proposed Amendments

With regard to respiratory therapists, the proposed rulemaking would amend §§ 25.215, 25.501—25.509, 25.509a, 25.509b and 25.510 to replace terms referring to the certification of respiratory care practitioners with references to the licensure of respiratory therapists. For additional clarity, the Board proposes to replace the reference in § 25.507(1)(i) (relating to criteria for licensure as a respiratory therapist) from passing the "CRTT" to passing the "credentialing examination" as determined by the National Board for Respiratory Care (NBRC). Moreover, because section 10.1(a.2) of the act prohibits an individual not licensed as a respiratory therapist from using the title "licensed respiratory therapist" or designations "LRT" or "RT," the proposed rulemaking would amend § 25.504(b) (relating to licensure of respiratory therapists; practice; exceptions) to prohibit unlicensed persons from using the title "licensed respiratory therapist" or the designations "LRT" or "RT," in addition to using the words "licensed respiratory care practitioner" or "respiratory care practitioner" or the letters "RCP" or similar words or related abbreviations to suggest licensure.

The proposed rulemaking would amend § 25.505(a) and (b) (relating to functions of respiratory therapists) to provide that a respiratory therapist may provide services upon referral of a certified registered nurse practitioner

or physician assistant, in addition to referral of a physician, as provided in section 10.1(d) of the act.

Because section 10.1(a) of the act sets as a standard for licensure graduation from a program approved by the Committee on Accreditation for Respiratory Care (CoARC), the proposed rulemaking would amend § 25.507(1)(i) to require graduation from a program approved by CoARC, rather than the Joint Review Committee on Respiratory Therapy Education (JRCRTE) and would replace the definition in § 25.502 (relating to definitions). Similarly, the proposed rulemaking would amend § 25.506 (relating to temporary permits) to require that an applicant for a temporary permit shall graduate from a program approved by CoARC, rather than JRCRTE.

Because section 10.1(a) of the act sets as the only criteria for licensure as a respiratory therapist either graduation from a respiratory care program approved by CoARC or existing licensure in another state by examination, the proposed rulemaking would amend § 25.507(a) to delete alternative criteria of being credentialed as a certified respiratory therapy technician or registered respiratory therapist and having continuously provided respiratory care services for a minimum of 12 months in paragraph (1)(ii) and (iv). Similarly, section 10.2(b) of the act has been amended to delete the following alternative qualifications for a temporary permit: designation as a certified respiratory therapist or registered respiratory therapist by a National credentialing agency; continuous provision of respiratory care services for at least 12 months; and holding certification, licensure or registration as a respiratory care practitioner in another state. Instead, section 10.1 of the act provides for recognition as a credentialed respiratory therapist as approved by the Board. Therefore, the proposed rulemaking would amend § 25.506(a) to provide that a temporary permit will be issued to an applicant who is recognized as a credentialed respiratory therapist by the NBRC, which credentials respiratory therapists. Additionally, because the licensing boards of the Bureau of Professional and Occupational Affairs now accept payment by credit card for online application and may extend other payment options in the future, the Board proposes to amend § 25.507(2) to require payment of the fee "in a form acceptable to the Board."

Because Act 46 amended section 10.2(f)(2) of the act to increase the continuing education requirement from 20 to 30 hours each biennial renewal period, the proposed rulemaking would amend § 25.509a(a) (relating to requirement of continuing education) to increase that requirement to 30 hours. Section 25.509a(a)(1) prohibits crediting more than 10 hours of continuing education obtained through nontraditional education such as prerecorded presentations, Internet presentations or journal review. In drafting the proposed rulemaking, the Board considered adjusting this limitation to respond to the increased total continuing education requirement or, as suggested by the Pennsylvania Society for Respiratory Care, replacing the hour limitation with a percentage. However, the Board instead determined that it should leave this limitation as is. The proposed rulemaking would also amend § 25.509a(a)(2) by clearly stating that at least 1 hour shall be completed in medical ethics and 1 hour shall be completed in patient safety, as required under section 10.2(f)(2) of the act. Additionally, because licensees could complete the entire amount of required continuing education through education in cardiac life support, the Board proposes to add § 25.509a(a)(3) to prohibit credit for basic cardiac life support courses and

permit no more than 8 hours during each biennial renewal period of credit in advanced cardiac life support. The Board also proposes to add § 25.509a(a)(3) to prohibit credit for the same continuing education more than once in a biennium. Because Act 46 amended section 10.2(f)(6) of the act to prohibit credit for courses in practice building as well as in office management, the proposed rulemaking would accordingly amend § 25.509b(c) (relating to approved educational programs). Finally, in reviewing its existing regulations in light of Act 46, the Board noticed a clarity issue in the recordkeeping requirement of § 25.509a(d), which requires a licensee to maintain proof of continuing education for 2 years, without specifying when this period would begin. Therefore, to permit the Board adequate time in which to audit licensees for compliance, the Board proposes to amend this subsection to require that a licensee maintain proof of continuing education for at least 2 years after the conclusion of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or the date the waiver was granted, whichever is latest.

For physician assistants, the proposed rulemaking would amend §§ 25.141, 25.142, 25.161, 25.163, 25.176(b), 25.191(c), 25.192(c), 25.201(a) and 25.231 to reflect that physician assistants are licensed, rather than certified.

The proposed rulemaking would add § 25.163(c) (relating to approval and effect of licensure and biennial renewal of physician assistants and registration of supervising physicians) to require that as a condition for biennial renewal physician assistants must maintain National certification available to the profession and recognized by the Board. Current subsections (c)—(f) would be renumbered. This proposed subsection would note that the Board recognizes certification through the National Commission on Certification of Physician Assistants (NCCPA) and its successors and any other National organization for which the Board has published recognition of the organization's certification of physician assistants. Proposed § 25.163(c) would also require that as a condition of renewal, a physician assistant shall complete continuing medical education, as required under section 10(f) of the act. Because this subsection would require physician assistants to maintain National certification and that certification may not be renewed without completing the continuing education requirements and NCCPA has standards for continuing education programs, the Board has not proposed additional requirements for continuing education as a condition of licensure renewal.

The proposed rulemaking would add § 25.164(a) to require physician assistants to maintain professional liability insurance as required under section 10(g.3) of the act and proposed § 25.164(d) would prohibit a physician assistant who does not have professional liability insurance from practicing. Under § 25.164(b), a physician assistant could provide proof of insurance through a certificate of insurance or a copy of the declaration page from the insurance policy setting forth the effective date, expiration date and dollar amounts of coverage or the physician assistant could provide proof of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans). Section 10(g.3)(2) of the act provides that a physician assistant applicant may file a copy of a letter from a professional liability insurance carrier indicating

that the applicant will be covered against professional liability in the required amounts effective upon issuance of the applicant's license to practice, but that the new licensee has 30 days to submit to the Board proof of insurance. To enforce this provision, proposed § 25.164(c) would provide that failure to provide this proof within the 30-day time period will result in the license becoming inactive as a matter of law. A licensee may not practice on an inactive license, but inactivation of the license is not considered disciplinary action.

Amendments were not necessary to implement all of the provisions of Act 46. The Board has not proposed amendments to its regulations to implement section 10.1(b) of the act, which provides that for 2 years after the effective date of Act 46, the Board may license without examination an applicant who is currently licensed by the Board or the State Board of Medicine and has otherwise met the new statutory requirements for licensure as a respiratory therapist. Amendments are not necessary because this provision is self-executing. Also, because existing § 25.509a(c) provides that the Board may waive the continuing education requirement for serious illness, undue hardship or military service upon timely written request with adequate supporting documentation, the Board found it unnecessary to propose amendments to implement section 10.2(f)(4) of the act. Finally, the Board has not proposed amendments to its regulations to implement section 10(g.2) of the act because it is self-executing and the existing regulations do not explicitly prohibit these acts of medical practice by a physician assistant.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will not have adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 2, 2012, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Regulatory Unit Counsel, Department of State, P. O. Box 2649, Harrisburg, PA 17105-2649 within

30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-5321 (Physician Assistant and Respiratory Therapist) when submitting comments.

JOSEPH C. GALLAGHER, Jr., DO,
Chairperson

Fiscal Note: 16A-5321. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter C. PHYSICIAN ASSISTANT PROVISIONS

GENERAL PROVISIONS

§ 25.141. Purpose.

The purpose of this subchapter is to implement the provisions of the act which provide for the [certification] licensure of physician assistants. The legislation provides for more effective utilization of certain skills of osteopathic physicians enabling them to delegate certain medical tasks to qualified physician assistants when such delegation is consistent with the patient's health and welfare.

§ 25.142. Definitions.

The following words and terms, when used in this [chapter] subchapter, have the following meanings, unless the context clearly indicates otherwise:

Certification—The [approval of an individual by the Board to serve as a physician assistant; and the] approval of a program by the Board for the training and education of physician assistants.

* * * * *

[CERTIFICATION] LICENSURE OF PHYSICIAN ASSISTANTS AND REGISTRATION OF SUPERVISING PHYSICIANS

§ 25.161. Criteria for [certification] licensure as a physician assistant.

* * * * *

(c) The Board will approve for [certification] licensure as a physician assistant an applicant who:

* * * * *

(e) A person who has been [certified] licensed as a physician assistant by the State Board of Medicine shall make a separate application to the Board if he intends to provide physician assistant services for a physician licensed to practice osteopathic medicine and surgery without restriction.

(f) An application for [certification] licensure as a physician assistant by the Board may be obtained by writing to the Harrisburg office of the Board.

§ 25.163. Approval and effect of [certification] licensure and biennial renewal of physician assistants and registration of supervising physicians.

(a) Upon approval of an application for [certification] licensure as a physician assistant, the Board will issue a physician assistant [certificate] license which contains [his] the licensee's name, [his certificate] license number and the date of issuance, after payment of the fee required [by] under § 25.231 (relating to schedule of fees).

(b) A physician assistant's right to continue [his practice] practicing is conditioned upon biennial renewal and the payment of the fee required [by] under § 25.231. Upon receipt of the form provided to the physician assistant by the Board in advance of the renewal period and the required fee, the Board will issue the physician assistant a biennial renewal certificate containing [his] the licensee's name, [his certification] license number and the beginning and ending dates of the biennial renewal period.

(c) To be eligible for renewal of a physician assistant license, the physician assistant shall complete continuing medical education as required by NC-CPA and maintain National certification by completing current recertification mechanisms available to the profession and recognized by the Board. The Board recognizes certification through NCCPA and its successor organizations and certification through any other National organization for which the Board publishes recognition of the organization's certification of physician assistants.

(d) Upon approval of an application for registration as a supervising physician, the Board will issue a supervising physician registration certificate which contains the name of the supervising physician, his registration number and the name of the physician assistant that he is authorized to supervise under that specific registration. The registration is not subject to renewal. When the physician submits a request to modify a protocol with respect to a physician assistant he is already registered to utilize, no new registration certificate will be issued; however, the physician will receive a letter from the Board confirming its approval of the expanded utilization.

[(d)] (e) Only a physician registered with the Board may use the services of physician assistants. A physician assistant shall have a clearly identified supervising physician who is professionally and legally responsible for the physician assistant's services. Whenever a physician assistant is employed by a professional corporation or partnership, an individual physician must still register as the supervising physician. Each member of a professional corporation or partnership may register as a supervising physician. When a physician assistant is employed by a professional corporation or partnership, the registered supervising physician is not relieved of the professional and legal responsibility for the care and treatment of patients attended by the physician assistant under his supervision.

[(e)] (f) The Board will keep a current register of persons [certified] licensed as physician assistants. This register will include the name of each physician assistant, [his] the physician assistant's mailing address of record, [his] current business address, the date of initial [certification] licensure, biennial re-

newal record and current supervising physician. This register is available for public inspection.

[(f)] (g) The Board will keep a current register of approved registered supervising physicians. This register will include the physician's name, his mailing address of record, his current business address, the date of his initial registration, his satellite operation if applicable, the names of current physician assistants under his supervision and the names of physicians willing to provide substitute supervision in his absence. This register will be available for public inspection.

(Editor's Note: Section 25.164 is new and printed in regular type to enhance readability.)

§ 25.164. Professional liability insurance coverage for licensed physician assistants.

(a) A licensed physician assistant shall maintain a level of professional liability insurance coverage as required under section 10(g.3) of the act (63 P. S. § 271.10(g.3)).

(b) Proof of professional liability insurance coverage may include:

(1) A certificate of insurance or copy of the declaration page from the applicable insurance policy setting forth the effective date, expiration date and dollar amounts of coverage.

(2) Evidence of a plan of self-insurance approved by the Insurance Commissioner of the Commonwealth under regulations of the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(c) A license that was issued in reliance upon a letter from the applicant's insurance carrier indicating that the applicant will be covered against professional liability effective upon the issuance of the applicant's license as permitted under section 10(g.3)(2) of the act will become inactive as a matter of law 30 days after issuance of the license if the licensee has not provided proof of professional liability insurance coverage and will remain inactive until the licensee provides proof of insurance coverage.

(d) A licensee who does not have professional liability insurance coverage as required under section 10(g.3) of the act may not practice as a physician assistant in this Commonwealth.

PHYSICIAN ASSISTANT UTILIZATION

§ 25.176. Monitoring and review of physician assistant utilization.

* * * * *

(b) Reports shall be submitted to the Board and become a permanent record under the supervising physician's registration. Deficiencies reported shall be reviewed by the Board and may provide a basis for disciplinary action against the [certification] license of the physician assistant and the license or registration, or both, of the supervising physician.

* * * * *

PHYSICIAN ASSISTANT REQUIREMENTS IN EMPLOYMENT

§ 25.191. Physician assistant identification.

* * * * *

(c) In the supervising physician's office and a satellite operation, a notice plainly visible to patients shall be

posted in a prominent place explaining the meaning of the term "physician assistant." The supervising physician shall display his registration to supervise the office. The physician assistant's [certificate] license shall be prominently displayed in all facilities in which he may function. Duplicate certificates may be obtained from the Board if required.

* * * * *

§ 25.192. [Notification] Notification of termination of employment; change of address.

* * * * *

(c) Failure to notify the Board of a termination in the physician/physician assistant relationship shall provide a basis for disciplinary action against the physician assistant's [certificate] license, the supervising physician's license or registration as a supervising physician.

DISCIPLINARY ACTION AGAINST [CERTIFICATION] LICENSE OF PHYSICIAN ASSISTANT

§ 25.201. Grounds for complaint.

(a) The bases upon which the Board may take disciplinary action against the [certification] license of a physician assistant are set forth in section 15(b) of the act (63 P. S. § 271.15(b)). A complaint against a physician assistant shall allege that the physician assistant is performing tasks in violation of statute, regulation or good and acceptable standards of practice of physician assistants. The grounds include those specifically enumerated in section 15(b) of the act [(63 P. S. § 271.15(b))]. Unprofessional conduct shall include, but is not limited to, the following:

(1) Misrepresentation or concealment of a material fact in obtaining a [certificate] license or a reinstatement thereof.

* * * * *

(7) Impersonation of a licensed physician or another [certified] licensed physician assistant.

* * * * *

Subchapter D. MINIMUM STANDARDS OF PRACTICE

§ 25.215. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Board-regulated practitioner—An osteopathic physician, physician assistant, respiratory [care practitioner] therapist, athletic trainer, acupuncturist or an applicant for a license or certificate issued by the Board.

* * * * *

Subchapter F. FEES

§ 25.231. Schedule of fees.

An applicant for a license, certificate, registration or service shall pay the following fees at the time of application:

* * * * *

Application for physician assistant [certificate] license \$30

* * * * *

Subchapter K. RESPIRATORY [CARE PRACTITIONERS] THERAPISTS

§ 25.501. Purpose.

This subchapter implements sections 10.1 and 10.2 of the act (63 P. S. §§ 271.10a and 271.10b), which were added by section 3 of the act of July 2, 1993 (P. L. 418, No. 59) to provide for the [certification] licensure of respiratory [care practitioners] therapists.

§ 25.502. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act—The Osteopathic Medical Practice Act (63 P. S. §§ 271.1—271.18).

CoARC—The Committee on Accreditation for Respiratory Care, an organization which accredits respiratory care programs.

[CRTT—The Certification Examination For Entry Level Respiratory Therapy Practitioners, a National uniform examination developed and administered by the NBRC for certified respiratory care therapy practitioners.]

* * * * *

[JRCRTE—The Joint Review Committee on Respiratory Therapy Education, which accredits respiratory care programs.]

NBRC—The National Board for Respiratory Care, the agency recognized by the Board to certify respiratory [care practitioners] therapists.

Respiratory [care practitioner] therapist—A person who has been [certified] licensed in accordance with the act and this subchapter.

§ 25.503. Fees.

The following is the schedule of fees charged by the Board:

* * * * *

(3) [Certification] Licensure examination . . . \$100

* * * * *

(5) Biennial renewal of [certification] licensure \$25

§ 25.504. [Certification] Licensure of respiratory [care practitioners] therapists; practice; exceptions.

(a) A person may not practice or hold himself out as being able to practice as a respiratory [care practitioner] therapist in this Commonwealth unless the person holds a valid, current temporary permit or [certificate] license issued by the Board, or the State Board of Medicine under Chapter 18 (relating to State Board of Medicine—practitioners other than medical doctors), or is exempted under section 10.1(e) of the act (63 P. S. § 271.10a(e)) or section 13.1(e) of the Medical Practice Act of 1985 (63 P. S. § 422.13a(e)).

(b) A person may not use the words “licensed respiratory therapist” or “respiratory care practitioner,” the letters [“R.C.P.”] “LRT,” “RT” or “RCP” or similar

words and related abbreviations to imply that respiratory care services are being provided, unless the services are provided by a respiratory [care practitioner] therapist who holds a valid, current temporary permit or [certificate] license issued by the Board or the State Board of Medicine and only while working under the supervision of a licensed physician.

§ 25.505. Functions of respiratory [care practitioners] therapists.

(a) Under section 10.1(d) of the act (63 P. S. § 271.10a(d)), a respiratory [care practitioner] therapist may implement direct respiratory care to an individual being treated by either a licensed medical doctor or a licensed doctor of osteopathic medicine, upon [physician] prescription or referral by a physician, certified registered nurse practitioner or physician assistant, or under medical direction and approval consistent with standing orders or protocols of an institution or health care facility. This care may constitute indirect services such as consultation or evaluation of an individual and also includes, but is not limited to, the following services:

* * * * *

(b) Under section 10.1(d) of the act, a respiratory [care practitioner] therapist may perform the activities listed in subsection (a) only upon [physician] prescription or referral by a physician, certified registered nurse practitioner or physician assistant or while under medical direction consistent with standing orders or protocols in an institution or health care facility.

§ 25.506. Temporary permits.

(a) A temporary permit will be issued to an applicant who submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(1) Has graduated from a respiratory care program approved by the [JRCRTE] CoARC.

(2) Is enrolled in a respiratory care program approved by the [JRCRTE] CoARC and expects to graduate within 30 days of the date of application to the Board for a temporary permit.

(3) [Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993] Meets the applicable requirements and is recognized as a credentialed respiratory therapist by the NBRC.

* * * * *

§ 25.507. Criteria for [certification] licensure as a respiratory [care practitioner] therapist.

The Board will approve for [certification] licensure as a respiratory [care practitioner] therapist an applicant who:

(1) Submits evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met one or more of the following criteria:

(i) Has graduated from a respiratory care program approved by the [JRCRTE] CoARC and passed the [CRTT] credentialing examination as determined by the NBRC.

(ii) [Has been credentialed as a Certified Respiratory Therapy Technician or Registered Respiratory Therapist by the NBRC.

(iii)] Holds a valid license, certificate or registration as a respiratory [care practitioner] therapist in another state, territory or the District of Columbia which has been issued based on requirements substantially the same as those required by the Commonwealth, including the examination requirement.

[(iv) Has continuously provided respiratory care services for a minimum of 12 months immediately preceding December 28, 1993, and has passed the CRTT as determined by the NBRC.]

(2) Has paid the appropriate fee in [the form of a check or money order] a form acceptable to the Board.

§ 25.508. Change of name or address.

A [certificateholder] licensee shall inform the Board in writing within 10 days of a change of name or mailing address.

§ 25.509. Renewal of [certification] licensure.

(a) A [certification] license issued under this subchapter expires on December 31 of every even-numbered year unless renewed for the next biennium.

* * * * *

(c) To retain the right to engage in practice, the [certificateholder] licensee shall renew [certification] licensure in the manner prescribed by the Board, pay the required fee and comply with the continuing education requirement of § 25.509a (relating to requirement of continuing education), prior to the expiration of the current biennium.

(d) When a [certification] license is renewed after December 31 of an even-numbered year, a penalty fee of \$5 for each month or part of a month of practice beyond the renewal date will be charged in addition to the renewal fee.

§ 25.509a. Requirement of continuing education.

(a) [Commencing with the biennial period January 1, 2007, through December 31, 2008, and each subsequent biennial period, an] An applicant for biennial renewal or reactivation of [certification] licensure is required to complete a minimum of [20] 30 hours of continuing education as set forth in section 10.2(f)(2) of the act (63 P. S. § 271.10b(f)(2)) subject to the following:

* * * * *

(2) One hour [each] must be completed in medical ethics and 1 hour must be completed in patient safety.

(3) Credit will not be given for continuing education in basic life support, including basic cardiac life support and cardiopulmonary resuscitation. In any given biennial renewal period, a licensee may receive credit for no more than 8 continuing education hours in advanced life support, including advanced cardiac life support, neonatal advanced life support/neonatal resuscitation and pediatric advanced life support.

(4) A licensee will not receive continuing education credit for participating in a continuing education activity with objectives and content identical to those of another continuing education activity within the same biennial renewal period for which credit was granted.

(b) An individual applying for the first time for [certification] licensure in this Commonwealth is exempt from the continuing education requirement for the biennial renewal period following initial [certification] licensure.

(c) The Board may waive all or a portion of the requirements of continuing education in cases of serious illness, undue hardship or military service. It shall be the duty of each [certificateholder] licensee who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The request must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why the [certificateholder] licensee is unable to comply with the continuing education requirement. The Board will grant, deny or grant in part the request for waiver and will send the [certificateholder] licensee written notification of its approval or denial of the waiver request. A [certificateholder] licensee who requests a waiver may not practice as a respiratory [care practitioner] therapist after the expiration of the [certificateholder's] licensee's current [certificate] license until the Board grants the waiver request.

(d) A [certificateholder] licensee shall maintain the information and documentation concerning compliance with the continuing education requirement or the waiver granted for a period of at least 2 years after the end of the biennial renewal period to which the continuing education or waiver applies, the date of completion of the continuing education or grant of the waiver, whichever is latest, and provide the information and documentation to representatives of the Board upon request.

§ 25.509b. Approved educational programs.

* * * * *

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits are also approved for continuing education credit by the Board. Advanced course work is course work beyond the academic requirements necessary for [certification] licensure as a respiratory [care practitioner] therapist.

(c) The Board will not accept courses of study which do not relate to the actual provision of respiratory care. Examples of unacceptable courses are those in office management [and financial procedures] or practice building.

§ 25.510. Inactive status.

(a) A [certificateholder] licensee who does not intend to practice in this Commonwealth and who does not desire to renew [certification] licensure shall inform the Board in writing. Written confirmation of inactive status will be forwarded to the [certificateholder] licensee.

(b) A [**certificateholder**] **licensee** shall notify the Board, in writing, of [**his**] **the licensee's** desire to reactivate the [**registration**] **license**.

(c) A [**certificateholder**] **licensee** who is applying to return to active status is required to pay fees which are due for the current biennium and submit a sworn statement stating the period of time during which the [**certificateholder**] **licensee** was not engaged in practice in this Commonwealth.

* * * * *

[Pa.B. Doc. No. 12-830. Filed for public inspection May 11, 2012, 9:00 a.m.]
