

**Certification and Testing Requirements of Pharmacy Technicians:
Testimony Regarding House Bill 1250, P.N. 2227
Pennsylvania House Professional and Occupational Affairs
Committee**

Pennsylvania Food Merchants Association Pharmacy Council

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Introduction

As special counsel to the Pharmacy Council of the Pennsylvania Food Merchants Association, I have been asked to provide testimony regarding whether the provisions of being added to Section 2.1 of the Pharmacy Act by House Bill 1250, P.N. 2227, which require pharmacy technicians to be certified by “nationally recognized certifying organizations” and require examinations of pharmacy technicians to be prepared and conducted by professional testing organizations under contract with the State Pharmacy Board, are generally consistent with statutory and regulatory requirements for the registration or licensing of pharmacy technicians established by other states and with the requirements for the training, certification and examination of personnel established by other Pennsylvania agencies.

For the reasons described below, I have concluded that these provisions of House Bill 1250 deviate substantially from requirements imposed by the pharmacy licensing boards of other states and are inconsistent with the requirements imposed for the training, certification and examination of technical personnel by many other Pennsylvania agencies. As a result, I recommend that the Committee give careful consideration to amending House Bill 1250 to recognize additional alternatives for the training, certification and examination of pharmacy technicians.

Background

Section 812.1 of the Administrative Code requires that:

All written, oral, practical or other nonwritten examinations shall be prepared and administered by a qualified and approved professional testing organization under contract to the appropriate board or commission within the Bureau of Professional and Occupational Affairs and approved by the appropriate board or commission, except that where the particular professional and occupational statutes permit the use of national uniform

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examinations and/or grading services, these examinations and grading services may continue to be used.

72 P.S. § 279.3a.

Section 812.1 of the Administrative Code supplements the provisions of Section 810 of the Code which provides for the appointment of a Commissioner of Professional and Occupational Affairs who is required to (1) issue all certificates and official documents on behalf of professional and occupational examining boards; (2) assist the boards “when requested;” (3) “cooperate with ... [the boards] in determining standards for professional education;” (4) hold examinations, conduct investigations, require information, and “perform any other acts which may be necessary to determine whether applicants for licensure or registration are qualified,” whenever “the right to practice any profession ... is conditioned upon examination, licensure or registration;” (5) fix fees; and (6) “be responsible for the administrative affairs of each board.” 71 P.S. § 279.1.

Requirements for the Certification of Pharmacy Technicians By Other States

Despite the existence of pharmacy technician training, certification and testing programs conducted by the National Association of Pharmacy Boards (*i.e.*, the Pharmacy Technician Certification Board), American Society of Health System Pharmacists, and the Institute for the Certification of Pharmacy Technicians, currently only two states, Utah and Wyoming, mandate the certification of all pharmacy technicians by nationally recognized certifying organizations in the manner proposed by House Bill 1250.

Instead, 30 of the 41 states do not mandate the national certification of pharmacy technicians.

- Thirteen states impose no formal certification program for pharmacy technicians, but instead require pharmacies to develop and implement training programs for technicians, including Arizona, Arkansas, Indiana, Iowa, Louisiana, Montana, New Hampshire, New Mexico, Oklahoma, Rhode Island, South Carolina, South Dakota and Washington State.
- Seven states only require certification by nationally certification agencies as an alternative to the completion of training programs certified pharmacies or by accredited or certified educational organizations or programs, including California, Maryland, Massachusetts, Nevada, Oregon, Virginia and West Virginia.
- Five states require pharmacies to certify the competence and training of pharmacy technicians, including Alaska, Connecticut, Idaho, Missouri and Vermont,
- Five states impose no formal certification requirements for pharmacy technicians, including Alabama, Arizona, Illinois, Kansas and North Dakota,

The remaining nine states generally make pharmacies responsible for the training and certification of technicians, but require the certification of technicians in limited circumstances.

- Seven states require the certification of some, but not all, technicians in pharmacies that exceed certain designated ratios of pharmacy technicians to pharmacists, including Colorado, Georgia, Minnesota, New Jersey, North Carolina, Tennessee and Texas.
- Two states require certification only if technicians perform certain designated functions outside the immediate control and supervision of pharmacists, including Kentucky and Maine.

Requirements for the Examination of Pharmacy Technicians In Effect In Other States

Currently, twenty-one states do not mandate the testing or examination of all registered or licensed pharmacy technicians.

- Twelve states establish no testing or examination requirements for pharmacy technicians, including Alabama, Alaska, Connecticut, Illinois, Iowa, Mississippi, Missouri, New Hampshire, New Mexico, Oklahoma, South Dakota and Vermont.
- Nine states, as noted above, only require the testing and examination of pharmacy technicians when certain designated ratios of pharmacy technicians to pharmacists are exceeded or when technicians are authorized to engage in independent practice.

Of the remaining 21 states, 16 provide alternatives to the use of nationally recognized testing organizations or contractors selected by state pharmacy boards.

- Six states require technicians to complete a test administered by a nationally recognized testing organization or to complete a training program provided by pharmacies, including California, Indiana, Louisiana, Maryland, Rhode Island and West Virginia.
- Four states require the technicians to pass examinations administered by a nationally recognized testing and certification organization or another examination as certified by the board, including Arizona, Kansas, North Dakota and South Carolina.
- Three states require technicians to pass tests administered by supervising or managing pharmacists or pharmacy owners, including Arkansas, Idaho and Montana.
- Two states require examinations to be conducted by nationally recognized testing organizations, pharmacies, or other board approved certification organizations, including Massachusetts and Nevada.

- One jurisdiction, *i.e.*, Washington State, provides that examinations may be conducted by private testing agency, an association of licensing authorities, or by any other organization approved by the state pharmacy.

Only the remaining four states establish examination requirements similar to those proposed by House Bill 1250, although none limit examinations solely to either nationally recognized organizations or professional testing services under contract with pharmacy boards.

- Oregon requires examinations to be provided by either the Pharmacy Technician Certification Board or the Institute for the Certification of Pharmacy Technicians. Or. Admin. R. § 855-025-0010.
- Utah requires completion of the National Pharmacy Technician Board Examination in addition to an examination adopted by the state pharmacy board Utah pharmacy laws and regulations. U.A.C. R156-17b-302.
- Virginia requires technicians to pass the National Pharmacy Certification Board Exam or a board approved exam conducted an examination service under contract with the board or otherwise administered by an “independent third party.” 18 V.A.C. §§ 110-20-102 & 103.
- Wyoming requires testing by the Pharmacy Technician Certification Board. W.C.W.R. 024-059-101, § 10(a).

Training Requirements Established by Other Pennsylvania Professional Licensing Boards

Because Section 810 of the Administrative Code draws a clear distinction between the role of the Bureau of Professional and Occupational Affairs in determining standards for professional education versus conducting examinations, and Section 812.1 of the Administrative Code only governs the preparation and administration of examinations, state licensing board are not required to utilize “nationally recognized organizations” to establish professional education and training requirements. While licensing boards are often do use nationally recognized or accredited programs for training and education, there are several examples where such requirements are not imposed. For example:

- Most professional licensing boards in establishing standards for continuing education are not restricted or limited to approving only “nationally recognized” programs for continuing education. *See e.g.*, 63 P.S. § 9.3(a)(10) (the State Board of Accountancy may approve continuing education programs based upon an analysis conducted by a consultant “designed to determine compliance with all continuing education regulations of the board, including attendance of licensees, qualifications of sponsors and qualifications of courses for credit.”); 63 P.S. § 222(b) (the State Board of Nursing may approve “nationally certified education courses” or “any other courses the board deems creditable.”); 63 P.S. § 244.3(a)(12) (the State Board of Optometry may approve continue education courses “in consultation with the Advisory Committee on Continuing Professional Education,” provided the courses “are available to all licensees on a reasonable nondiscriminatory fee basis.”); 63 P.S. § 271.10(d) (the State Board of

Osteopathic Medicine in approving continuing education program may “in its discretion, ... among other things, use and rely upon guidelines and pronouncements of recognized educational and professional organizations.”).

- Several licensing boards are given broad authority to approve education and training programs without respect to whether the programs conform to “nationally recognized” standards or are formally accredited. See e.g., 63 P.S. §§ 216.1, 216.2 (the State Board of Nursing is authorized to “establish standards for the operation and approval of nursing education programs for the preparation of registered professional nurses” and to “annually prepare and make available for public distribution a list of all programs approved and classified by it.”); 63 P.S. 271.71(d) (“The State Board of Osteopathic Medicine and the State Board of Medicine shall jointly promulgate regulations which ... establish approved education and training programs for certification” of athletic trainers.); 63 P.S. § 172 (“The State Board of Medical Education and Licensure shall formulate and issue such rules and regulations, from time to time, as may be necessary for the examination, licensing, and proper conduct of the practice of midwifery by midwives.”).
- Several licensing boards are given the authority to approve post-graduate training or internship programs without reference to whether the programs conform to national standards or are formally accredited. See e.g., (the State Board of Barber Examiners requires as a condition for licensure “a barbering study and training period ... in a licensed barber school under the instruction of a licensed teacher, or in a licensed barber shop under the instruction of a licensed teacher.”); (the State Board of Auctioneer Examiners requires applicants for licensure to have “served an apprenticeship as a licensed apprentice auctioneer.”); 63 P.S. § 1104(a)(1) (the State Board of Examiners of Nursing Home Administrators may “develop, impose, and enforce standards ... [requiring] supervised experience prior to licensure, in the field of institutional administration.”); 63 P.S. § 1206(a)(2) (applicants for licensure as psychologists must complete programs of “supervised experience ... acceptable to the board pursuant to criteria established by board regulations.”); 63 P.S. § 1907(d)(3). (e)(3) & (f)(3) (the State Board Social Workers, Marriage and Family Therapists and Professional Counselors may require “supervised clinical experience acceptable to the board.”).
- The State Board of Cosmetology, as an alternative to requiring applicants for licensure to enroll in schools of cosmetology, allows “any cosmetologist who is a cosmetology salon owner ... who has had at least five years experience as a licensed cosmetologist in Pennsylvania, and who is a holder of a teacher's license, [to] instruct apprentices in a duly licensed cosmetology salon, provided that there shall be no less than two licensed cosmetologists in addition to the teacher for each apprentice in any salon and there shall be no more than two apprentices in any salon, and ... provided each teacher instructing an apprentice shall report quarterly hours to the board on a form provided by the board.” 63 P.S. § 516.

Likewise, because the Bureau of Professional and Occupational Affairs is required by section 810 of the Administrative Code to conduct examinations for licensing boards “whenever under any act of Assembly the right to practice any work or profession is conditioned upon

examination, licensure or registration by or within the [Department of State],” the requirement that examinations be prepared and administered by a professional testing organization under contract with the Bureau applies only to examinations and tests required to be conducted by licensing boards or the Bureau. This distinction is reflected by the fact that none of the numerous types of education programs required as prerequisites for licensure, registration or certification need to have their tests and examinations conducted by the Bureau under contract. Similarly, in several instances, particular licensing laws clarify that the Bureau is not responsible for tests or examinations conducted by independent certification agencies. For example:

- The State Board of Nursing may certify as a registered nurse practitioner in a particular specialty area a nurse who “holds certification as a certified registered nurse practitioner from a board-recognized national certification organization which required passing of a national certifying examination in the particular clinical specialty area.” 63 P.S. § 218.1(b)(1)(ii).
- Individuals are not required to pass examinations adopted by the Social Workers, Marriage and Family Therapists and Professional Counselors Act to be licensed as clinical social workers or professional counselors upon successfully passing “a national certification examination ... administered by a nationally recognized credentialing agency approved by the board.” 63 P.S. §§ 1909(a)(5) & (c)(5).

Authorization for Other State Agencies to Prepare and Conduct Examinations

The practice of not restricting the certification of technicians to nationally recognized organizations or through testing conducted by independent testing organizations operating under contract with registration and licensing agencies is also amply illustrated by programs not under the jurisdiction of the Bureau of Professional and Occupational Affairs. For example:

- The Pennsylvania Emergency Management Agency is authorized to “require hydroelectric generating facilities and dam operators” to establish programs for “minimum competency testing for their operators.” 35 Pa.C.S. § 7313.
- The Supreme Court Administrator’s Office “may establish a program to appoint and use certified [foreign language] interpreters in judicial proceedings,” including “establishing and administering a comprehensive testing and certification program for interpreters.” 42 Pa.C.S. § 4411.
- The Public Utility Commission is authorized to “prescribe reasonable regulations for the examination and testing” of services, meters and appliances required to be conducted by utilities. 66 Pa.C.S. § 1504.
- The Department of Transportation is authorized to conduct commercial drivers license “skills tests” in accordance with Federal standards and may “authorize a person, including an agency of this or another state, an employer, a private institution, association or driver training school, or a department, agency or instrumentality of local government to administer the skills test.” 75 Pa.C.S. § 1607.

- The Department of Transportation is authorized to “appoint stations for calibrating and testing [speed timing] devices and may prescribe regulations as to the manner in which calibrations and tests shall be made.” 75 Pa.C.S. § 3368.
- The Department of Agriculture is authorized to establish standards and procedures for the testing of commercial pesticide applicators. 3 P.S. § 111.36a.
- The Department of Agriculture is required to establish standards for nurserymen, dealers and nursery agents to inspect nursery stock. 3 P.S. § 258.9.
- The Department of Agriculture is required to establish a commercial manure hauler and broker certification program which includes requirements for “training and educational requirements, testing.” In establishing the program, the Department may approve the use of programs developed by colleges and universities. 3 P.S. § 2010.3.
- The State Police are authorized to establish lethal weapons testing programs for detectives. 22 P.S. § 45.
- School districts are required to conduct training programs for all personnel in CPR conducted by the American Red Cross, the American Heart Association, individuals certified to provide training by the Red Cross or the Heart Association, or by any other certifying agency approved by the Department of Health. 24 P.S. § 12-1205.4.
- The Secretary of Revenue may designate agencies to conduct testing of driver training instructors in private schools. 24 P.S. § 2834(d).
- The Milk Marketing Board is authorized to conduct examinations for the certification of private certified milk testers. 31 P.S. § 700j-602.
- The Department of Environmental Protection is authorized to “develop a list of firms or agencies that provide testing services for evaluating gradation specifications of sand for use in elevated sand mound on-lot disposal systems.” 35 P.S. § 750.10.
- The Department of Labor and Industry is authorized to approve programs for the testing and certification of persons installing and inspecting new manufactured homes.” 35 P.S. § 1658.5.
- The Department of Labor and Industry is authorized to “in consultation with the advisory board, BOCA, NCSBCS and other interested parties ... adopt a program of required training and certification for all categories of [building] code administrators.” 35 P.S. § 7210.701.
- The Department of Agriculture is authorized to approve courses of training for poultry technicians authorized to draw blood from poultry for use in pullorum testing who are not licensed veterinarians, provided that the course of training are “conducted by a person who is a graduate of an accredited school of veterinary medicine, and [provides training regarding] ... the harmless and painless manner of drawing blood from live poultry, the

proper handling and preservation of blood samples, and any other related instruction which the Secretary of Agriculture deems essential.” 63 P.S. § 643.

- The Department of Education is authorized to approve training programs for nurses aids provided that the programs provide curriculum approved by the Department pertaining to the prevention of abuse, exploitation and neglect, the improper use of physical or chemical restraints and responses to abusive behavior. 63 P.S. § 673.
- The State Board for Certification of Water and Wastewater System Operators is authorized to administer examinations prepared by the Department of Environmental Protection. 63 P.S. § 1004(a)(2).
- The Insurance Department is authorized to prepare and administer examinations for motor vehicle damage appraisers. 63 P.S. § 853(d).
- The Insurance Department is authorized to prepare “interrogatories” for the examination of applicants for an insurance adjuster’s license. 63 P.S. § 1602(b).
- The Office for the Deaf and Hard of Hearing within the Department of Labor and Industry is authorized to prepare and administer tests for sign language interpreters. 63 P.S. § 1725.5(a)((1)(iii).
- The Department of Labor and Industry is authorized to establish standards and procedures for the accreditation of asbestos occupation training programs which include examinations “administered or approved” by the Department. 63 P.S. §§ 2104, 2105(a)(2).
- The Navigation Commission for the Delaware River is required to “develop, implement and administer a testing program to provide for the licensure of pilots who travel the Delaware River.” 71 P.S. § 670.2.

Conclusion

Based upon the widely accepted practices of pharmacy technician registration and licensing requirements in effect in most other state and precedents established by other Pennsylvania agencies, the Committee should give careful consideration whether it is necessary or appropriate to mandate the certification of pharmacy technicians exclusively by national certifying organizations or to require in all cases the use of examinations conducted by professional testing organizations acting under contract with the Pharmacy Board.

As reflected in the practices of other states and agencies, the members of the Pennsylvania Pharmacy Council ask that the Committee give careful consideration to providing alternatives to national certification and testing by professional testing organizations under contract with the Pharmacy Board, especially by granting the Pharmacy Board the authority to work with a broadly representative group of stakeholders to consider the advisability of allowing pharmacies and state pharmacy organizations to develop and conduct their own certification, training and testing programs. These alternatives may be particularly well suited to chain pharmacies

(including those operated by multi-site mass market retailers), institutional pharmacies and specialty pharmacies, and may reduce costs of overhead burdens for some community retail pharmacies.

Rather than allowing the laws of Utah and Wyoming to provide the benchmark for the regulation of pharmacy technicians in Pennsylvania, the Pennsylvania Pharmacy Council requests that the Committee amend House Bill 1250 to more accurately reflect prevailing national practices and the standards and to conform to the treatment of testing and certification requirements imposed by numerous other Pennsylvania agencies.