NOTICE OF ADOPTION

Clinical Laboratory Directors

I.D. No. HLT-51-18-00017-A
Filing No. 522
Filing Date: 2019-05-22
Effective Date: 2019-06-12

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 19 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 573

Subject: Clinical Laboratory Directors.

Purpose: Recognize additional accrediting boards for qualification of clinical laboratory directors to obtain a certification of qualification.

Substance of final rule: Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 573 of the Public Health Law, Part 19 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, as follows:

Section 19.1 is amended to include definitions for "assistant director," "board certified," "earned doctoral degree," "training," and "experience." The definitions of "acceptable laboratory" and "category" are also revised and clarified. Section 19.1 is further revised to expressly recognize physicians and dentists who are licensed in the countries in which they practice as being able to qualify as directors or assistant directors of clinical laboratories or blood banks.

Section 19.2 is amended to recognize additional accrediting boards for purposes of certifying that applicants meet the educational and training requirements needed to be a director or assistant director of a clinical laboratory or blood bank.

Section 19.3 is amended to provide the Department more flexibility in updating the certificate of qualification categories. Amendments to this section will also allow the Department to issue certificates of qualification with limitations based on an applicant's specific experience. In addition, this section is amended to include additional director responsibilities, such as ensuring staff competency, specifying in writing the responsibilities and duties of all laboratory personnel, having standard operating procedure manuals, and participating in acceptable proficiency testing.

Section 19.4 is amended for clarity and to remove references to New York City laboratory permits, which are obsolete.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 19.2(d)(2) and 19.3(d)(12).

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department of Health ("Department") received comments from the American Osteopathic Association, the American Board of Bioanalysis, and members of the public. These comments are summarized below along with the Department's responses.

COMMENT: The American Osteopathic Association (AOA) stated overall support of the proposed regulation but suggested the following amendments:

- Using general AOA board certification equivalency language to address a recent name change of the certifying board from "Laboratory Medicine" to "Clinical Pathology / Laboratory Medicine;"
- Amending the definition of earned doctoral degree to include doctor of medicine and doctor of osteopathic medicine;
- Including the American Osteopathic Board of Pathology in Laboratory Medicine or Clinical Pathology/Laboratory Medicine and the American Osteopathic Board of Internal Medicine in Hematology as recognized certifying boards for Certificate of Qualification candidates in the specialty of transfusion services;
- Including the American Osteopathic Board of Dermatology as a recognized certifying board for Certificate of Qualification candidates in the specialty of dermatopathology;
- Including the American Board of Internal Medicine in Hematology or Hematology and Oncology as recognized certifying boards for Certificate of Qualification candidates in specialty of hematology;
- Updating the term "doctor of osteopathy" to "doctor of osteopathic medicine."

RESPONSE: The Department uses the generic term "laboratory medicine" in the proposed regulation which the Department deems equivalent to either naming convention used by AOA.

The Department acknowledges the AOA's suggestions to further expand the list of recognized certifying boards; however, additional review of board eligibility criteria must be performed to determine acceptability. These suggestions will be taken into consideration for future rulemaking.

Doctor of medicine and doctor of osteopathic medicine are not included in the definition of an earned doctoral degree because they are defined as professional degrees, not earned doctoral degrees. The Department has made a technical change to the regulation, replacing the term "doctor of osteopathy" with the term "doctor of osteopathic medicine." No other changes to the regulation are necessary as a result of this comment.

COMMENT: The American Board of Bioanalysis stated overall support for the proposed regulation but suggested recognizing several laboratory director certifications offered by the American Board of Bioanalysis including: Bioanalyst Clinical Laboratory Director; Public Health Laboratory Director; Embryology Laboratory Director; and Andrology Laboratory Director. The American Board of Bioanalysis also suggested that the

proposed post-doctoral experience required for an individual certified as a High Complexity Clinical Laboratory Director be reduced from four years to two years, or that all clinical laboratory experience be considered regardless of whether it was obtained pre- or post-doctoral, provided that two years of such experience is at the supervisory level.

RESPONSE: Certification as a High Complexity Clinical Laboratory Director by the American Board of Bioanalysis includes all areas of clinical laboratory science that are offered under the suggested certifications, including Bioanalyst Clinical Laboratory Director, Public Health Laboratory Director, Embryology Laboratory Director, and Andrology Laboratory Director. Therefore, the Department has determined that recognizing these additional certifications is not necessary. Since 1992, the Department has required that relevant clinical laboratory experience must be obtained after receiving an earned doctoral degree. No changes to the regulation were made as a result of these comment.

COMMENT: Comments were received in support of the regulatory amendments. These comments included positive statements about the inclusion of the American Board of Bioanalysis certification as High Complexity Clinical Laboratory Director (HCLD) on the list of recognized certifying boards to qualify candidates for a Certificate of Qualification.

RESPONSE: The Department acknowledges these comments in support of the proposed regulation. No changes to the regulation are necessary as a result of these comments.

Long Island Power Authority

NOTICE OF ADOPTION

Commercial System Relief Program and Distribution Load Relief Program in the Authority's Tariff for Electric Service

I.D. No. LPA-09-19-00014-A
Filing Date: 2019-05-28
Effective Date: 2019-05-28

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service to allow behind-the-meter battery storage to participate in the Authority's Commercial System Relief Program and Distribution Load Relief Program.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Commercial System Relief Program and Distribution Load Relief Program in the Authority's Tariff for Electric Service.

Purpose: To update the Tariff to allow incentives for a behind-the-meter battery storage program from PSEG Long Island's Utility 2.0 Plan.

Text of final rule: The Long Island Power Authority (the "Authority") staff proposes to revise the Authority's Tariff for Electric Service to enable incentives in support of PSEG Long Island's planned behind-the-meter energy storage program. The incentives will be offered through the Authority's existing dynamic load management tariffs.

Each year, PSEG Long Island submits an annual update to its Utility 2.0 Long Range Plan, in which it proposes new initiatives to enhance the customer experience, modernize the Long Island electric grid, and promote New York State's Reforming the Energy Vision policies. As part of its 2018 Utility 2.0 annual update, filed on June 29, 2018, PSEG Long Island proposed to introduce an innovative, open solicitation program opportunity for third-party aggregators to install behind-the-meter batteries for PSEG Long Island customers[1]. The goal of the program is to catalyze the local availability of energy storage for the commercial and residential market while providing load relief, especially in those defined areas of the grid where peak demand needs are most critical. On November 1, 2018, the Department of Public Service ("DPS") recommended adoption of PSEG Long Island's behind-the-meter battery program[2].

The Authority's existing Dynamic Load Management ("DLM") programs include a peak load-shaving Commercial System Relief Program (the "CSRP") and a local reliability supporting Distribution Load Relief Program (the "DLRP"). The behind-the-meter battery program will make use of the Authority's existing CSRP and DLRP tariffs to offer incentives for qualifying battery storage equipment. This proposal will modify those tariffs consistent with the behind-the-meter battery program to enable incentives in support of the Utility 2.0 behind-the-meter battery storage program to be paid through the Authority's existing CSRP and DLRP tariffs.

[1]Case No. 14-01299, In the Matter of PSEG-LI Utility 2.0 Long Range Plan, Item No. 48.

[2] Case No. 14-01299, In the Matter of PSEG-LI Utility 2.0 Long Range Plan, Item No. 57.

Final rule as compared with last published rule: Nonsubstantive changes were made in section XIII.B.d.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

Revised Regulatory Impact Statement

A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis

A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis

A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement

A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Public Service Commission

NOTICE OF ADOPTION

Request for Limited Waivers

I.D. No. PSC-05-19-00012-A
Filing Date: 2019-05-22
Effective Date: 2019-05-22

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 5/16/19, the PSC adopted an order approving Frontier Communications of New York, Inc.'s (Frontier) petition for limited waivers associated with its proposed cable television franchise agreement with the Village of Washingtonville, Orange County.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Request for limited waivers.

Purpose: To approve Frontier's petition for limited waivers.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving Frontier Communications of New York, Inc.'s petition for limited waivers of certain of the Commission's rules in Parts 890 and 895 associated with it proposed cable television franchise agreement with the Village of Washingtonville, Orange County, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(18-V-0719SA1)