

Public Notice

Education

State Board of Education

Notice of Action on Petition for Rulemaking

State Board of Examiners and Certification

Swimming and Water Safety

N.J.A.C. 6A:9B-11.10

Petitioner: Tom Scott.

Take notice that on October 27, 2020, the New Jersey State Board of Education (State Board) received a petition for rulemaking from the above petitioner, requesting the State Board of Education amend N.J.A.C. 6A:9B-11.10(a) to include another option for the entity that issues the safety training certificates required for a swimming and water safety endorsement to an instructional certificate. The petitioner submitted materials to support the petition, which were received on December 4, 2020.

The petitioner specifically requested that the State Board adopt amendments at N.J.A.C. 6A:9B-11.10(a)2, 3, and 4, to add Lifeguard-Pro as an issuer of each of the following required certificates: a valid Cardiopulmonary Resuscitation for Professional Rescuer (CPR) Certificate, a valid Lifeguard Certificate issued by the American Red Cross or the YMCA, and a valid Water Safety Instructor Certificate.

A notice acknowledging receipt of the petition was published in the December 7, 2020, New Jersey Register at 52 N.J.R. 2131(a). A notice of action stating additional time was needed to deliberate about this petition because the New Jersey Department of Health (NJDOH), in

accordance with N.J.S.A. 18A:26-2.3, was reviewing the materials submitted by the petitioner was published in the New Jersey Register on February 16, 2021, at 53 N.J.R. 266(a).

Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any statutory deadline affecting the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice is timely filed.

The petitioner did not provide any information or documentation about how the Lifeguard-Pro program compares to the Water Safety Instructor programs of the authorized issuers.

The petitioner submitted a copy of an October 23, 2015, letter from the NJDOH granting Lifeguard-Pro “a waiver of standard to conduct the training necessary for the certification of lifeguards.” Subsequently, the NJDOH added Lifeguard-Pro to the list of approved organizations that are recognized to train and certify lifeguards. The 2015 NJDOH letter specifically stated that the NJDOH reserved the right to periodically review and/or rescind Lifeguard-Pro’s recognized status.

As part of the Department’s consultation with the NJDOH, the NJDOH indicated that it requested – but had not received – documentation from Lifeguard-Pro as part of the agency’s periodic review process. Accordingly, the NJDOH could not confirm for the Department that Lifeguard-Pro’s program for a Lifeguard Certificate remains a comparable program to the American Red Cross’ lifeguard program. The NJDOH utilizes the American Red Cross as the standard by which it compares all other Lifeguard Certificate programs, which routinely include CPR certification.

After consultation with the NJDOH and reviewing all documentation provided by the petitioner, the Department is unable to determine if Lifeguard-Pro’s program is comparable to

the CPR and Lifeguard certificate programs provided by the American Red Cross and YMCA, or the Water Safety Instructor programs provided by the American Red Cross, YMCA, or the Flotation Aided Swim Training Program (FAST Swim ProgramTM). The three entities are the approved issuers referenced at N.J.A.C. 6A:9B-11.10(a).

Therefore, the petitioner's request is hereby denied.