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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

August 19, 1999

Hanna Gruen, Chairperson
State Board of Occupational Therapy, Education and Licensure
116 Pine Street
Harrisburg, PA 17105

Re: IRRC Regulation #16A-673 (#2037)
State Board of Occupational Therapy, Education and Licensure
Oral Orders

Dear Chairperson Gruen:

Enclosed are our Comments on the subject regulation. They are also available on our website at <http://www.irrc.state.pa.us>.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact James M. Smith at 783-5439.

Sincerely,

Robert E. Nyce
Executive Director

REN:cae
Enclosure
cc: Ruth Dunnewold
Joyce McKeever
Honorable Kim Pizzigrilli
Dorothy Childress
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION
ON
STATE BOARD OF OCCUPATIONAL THERAPY EDUCATION AND LICENSURE
REGULATION NO. 16A-673
ORAL ORDERS
AUGUST 19, 1999

We have reviewed this proposed regulation from the State Board of Occupational Therapy Education and Licensure (Board) and submit for your consideration the following objections and recommendations. Subsections 5.1(h) and 5.1(i) of the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) specify the criteria the Commission must employ to determine whether a regulation is in the public interest. In applying these criteria, our Comments address issues that relate to economic impact, need, reasonableness of requirements, and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 42.25(b). Countersignature requirements. - Need, Reasonableness of requirements, Economic impact and Clarity.

We have three concerns with the countersignature requirements in Subsection (b). First, the regulation does not state what the occupational therapist should do if a timely countersignature from the physician or podiatrist is not obtained. Should the occupational therapist continue to follow the oral order? The regulation should state the actions required of the occupational therapist if the physician or podiatrist does not provide a timely countersignature.

Second, there are no alternative means to verify an oral order. The Pennsylvania Medical Society commented that in private settings the site of the occupational therapy may be independent of the physician's or podiatrist's office. They suggested using alternate means to verify an oral order, such as a faxed or mailed copy of the order. Alternatives to countersignatures could allow more timely verification of oral orders. The Board should consider allowing alternative methods to verify oral orders in the regulation.

Finally, the reference to Department of Health regulations is not specific. Subsection (b) requires countersignatures "in accordance with applicable regulations of the Department of Health governing the licensed facility." Oral order requirements appear in several chapters of the Department of Health's regulations and time requirements for countersignatures vary significantly. For example, under 28 Pa. Code Section 107.62 (relating to medical staff), a countersignature is required within 24 hours. Under 28 Pa. Code Section 211.3 (relating to long term care nursing facilities), a countersignature is required within seven days. For clarity, the regulation should directly reference the applicable sections of the Department of Health's regulations.