

MARIO J. CIVERA, JR., MEMBER
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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

October 3, 2000

Original: 2054

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg, PA 17101

Dear Chairman McGinley:

I am writing to inform you that the House Professional Licensure Committee held a meeting on October 3, 2000, and voted to approve Regulation 16-20, Regulation 16A-414, Regulation 16A-579, and Regulation 16A-499.

Please feel free to contact my office if any questions should arise.

Sincerely,

A handwritten signature in cursive script that reads "Mario J. Civera".

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures

cc: Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
Frank M. Adams, President
State Architects Licensure Board
Brian V. Harpster, V.M.D., Chairman
State Board of Veterinary Medicine
Charles D. Hummer, Jr., M.D., Chairman
State Board of Medicine
K. Stephen Anderson, R.N., CRNA, Chairman
State Board of Nursing
Honorable Kim H. Pizzingrilli, Secretary of the Commonwealth
Department of State

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PROFESSIONAL LICENSURE,
MAJORITY CHAIRMAN
LIQUOR CONTROL
FIREFIGHTERS' CAUCUS,
COCHAIRMAN EMERITUS

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Regulation 16-20

Original: 2054

Bureau of Professional and Occupational Affairs

PROPOSAL: Regulation 16-20 amends 49 PA Code, Chapter 43b, regulations of the Bureau of Professional and Occupational Affairs. The amendments finalize the schedule of civil penalties which the Bureau was authorized to adopt pursuant to Act 48 of 1993.

Regulation 16-20 is Final Rulemaking which was delivered to the Professional Licensure Committee on September 18, 2000. The Professional Licensure Committee has until October 8, 2000, to approve or disapprove the regulation.

ANALYSIS: Pursuant to Sec. 5(a) of the act of June 2, 1993 (P.L. 345, No. 48), (63 P.S. Sec. 2205(a), the Commissioner of the BPOA, after consultation with the licensing boards and commissions within the BPOA, is authorized to adopt a schedule of civil penalties for (1) operating without a current and valid license, registration, certificate or permit and (2) violating a licensing board or commission act or regulation relating to the conduct or operation of a business or facility licensed by a licensing board or commission.

The Bureau states that since the implementation of Act 48 Civil Penalties, sanctions imposed for relatively minor violations have been entered more quickly than it would have taken to resolve these cases under regular disciplinary procedures. The proposed additions are meant to finalize the schedule of civil penalties. The additional penalties are applicable to violations of the statutes and regulations of the following licensing boards: Accountancy, Architects, Auctioneers, Professional Engineers, Land surveyors and Geologists, Dentists and Pharmacists. The full text of the proposed schedule is set forth in Annex A of the Bureau's proposed rulemaking package.

In reviewing the proposed regulations, the Committee noted that the schedule of civil penalties for pharmacists and pharmacies, a \$250 penalty is imposed for violations of 49 Pa. Code 27.15(b) for both "uncleanliness" as well as "pharmacy not in good repair." However, it is actually subparagraph (a) of Sec. 27.15 that requires the pharmacy and equipment to be in a "clean and orderly condition and in good repair." Subsection (b) requires that a pharmacy comply with health and sanitation statutes. The Committee suggested that the penalties for violations of the individual subparagraphs of Sec. 27.15 be set forth in the same manner as provided in that section. The Bureau has adopted that suggestion.

The Committee also noted that the civil penalty for practicing on a lapsed license is not uniform among the various licensing boards. The Committee requested an explanation as to why the boards would assess different penalties for the same offense. The Bureau's response is that each board has independent authority to approve and implement its own schedule of penalties. The Bureau sees no special need for uniformity among the boards, and notes the varying degrees of harm to the public for operating without a personal or facility license.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives
Professional Licensure Committee
September 21, 2000