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

October 22, 1999

Honorable Dorothy Childress, Commissioner
Bureau of Professional and Occupational Affairs
116 Pine Street, 6th Floor
Harrisburg, PA 17101

Re: IRRC Regulation #16-20 (#2054)
Bureau of Professional and Occupational Affairs
Schedule of Civil Penalties

Dear Commissioner Childress:

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,

A handwritten signature in black ink that reads "Robert E. Nyce".

Robert E. Nyce
Executive Director

REN:kcg

Enclosure

cc: Joyce McKeever
Ruth D. Dunnewold
Beth Sender Michlovitz
Honorable Kim Pizzigrilli
Office of General Counsel
Office of Attorney General
Pete Tartline

COMMENTS OF THE INDEPENDENT REGULATORY REVIEW COMMISSION

ON

**BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
REGULATION NO. 16-20**

SCHEDULE OF CIVIL PENALTIES

OCTOBER 22, 1999

We have reviewed this proposed regulation from the Bureau of Professional and Occupational Affairs (BPOA) 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 consistency with existing regulations and clarity. We recommend that these Comments be carefully considered as you prepare the final-form regulation.

1. Section 43b.3. Procedures. - Consistency with existing regulations and Clarity.

Subsection 43b.3(b)(1) in the existing regulation refers to schedules of civil penalties under §§ 43b.4 - 43b.9. This reference should be amended to include the additional schedules proposed in this regulation.

2. Section 43b.7. Schedule of civil penalties - pharmacists and pharmacies. - Consistency with existing regulations and Clarity.

The House Professional Licensure Committee commented on an inconsistency between the violations described in the proposed regulation and existing regulation 49 Pa. Code § 27.15. Existing Subsection 27.15(a) requires a pharmacy to be in a clean and orderly condition and in good repair. Existing Subsection 27.15(b) states that a pharmacy must comply with state and local health and sanitation statutes. However, the proposed regulation's description of violations is not consistent with the existing Subsections. The description of violations in this regulation should be set forth in the same manner as the existing regulation.

3. Section 43b.12a. Schedule of civil penalties - auctioneers, apprentice auctioneers, auction house and auction companies. - Clarity.

In the "Penalties" column, the word "action" is missing after the word "formal." The phrase "formal action" should be used to be consistent with other penalties in the regulation.

4. Section 43b.13a. Schedule of civil penalties - engineers, land surveyors and geologists. - Clarity.

The wording of the "Title/Description" for violation under 63 P.S. § 150(b) is unclear. It does not clearly state that the violation is for misrepresentation on a sign, advertisement, letterhead or card. The description is also unclear because it uses four subparagraphs for identical penalties. The description could be consolidated and clearly establish that the violation is for representing oneself to be an engineer, land surveyor or geologist on a sign, advertisement, letterhead or card, without being licensed or registered.



INDEPENDENT REGULATORY REVIEW COMMISSION

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INDEPENDENT REGULATORY REVIEW COMMISSION

To: Joyce McKeever
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 Licensing Boards and Commissions
Phone: 3-1088
Fax: 7-0251

From: Kristine M. Shomper
 Deputy Director for Administration
Company: Independent Regulatory Review Commission
Phone: (717) 783-5419 or (717) 783-5417
Fax: (717) 783-2664

Date: October 22, 1999
of Pages: 3

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Bureau of Professional and Occupational Affairs regulation #16-20 (#2054). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy* Date: 10/22/99