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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

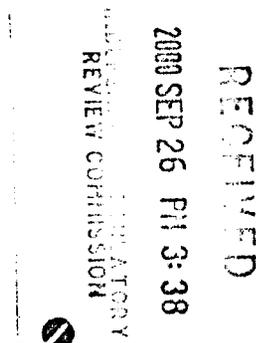
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September 26, 2000

COMMITTEES

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

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harristown 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 September 26, 2000, and voted to take no formal action on Regulation 16A-674 until final-form regulations are promulgated. However, the Committee notes that in eliminating Subsection 42.3(a) in its entirety, the only remaining provision in that section would be current Subsection (b). Page 2 of the Annex does not show a (b) in brackets to indicate that subsection (b) would no longer be a subsection.

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

Sincerely,

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosure

cc: Hanna Gruen, Chairperson
State Board of Occupational Therapy
Honorable Kim H. Pizzigrilli, Secretary of the Commonwealth
Department of State

Regulation 16A-674

State Board of Occupational Therapy Education and Licensure

PROPOSAL: Regulation 16A-674 amends 49 PA Code, Chapter 42, regulations of the State Board of Occupational Therapy and Education Licensure by eliminating provisions which have become outdated or invalid, standardizing and simplifying language in other provisions, and adopting the most recent code of ethics in the profession.

The proposed Rulemaking was published in the Pennsylvania Bulletin on August 12, 2000. The Professional Licensure Committee has until October 2, 2000, to submit comments on the regulation.

ANALYSIS: Section 42.1, Definitions, would be amended by replacing the "American Occupational Therapy Certification Board" (AOTCB) with the "National Board for Certification in Occupational Therapy, Inc." (NBCOT), since the NBCOT is now the name of the national agency which prepares the certifying exam and determines whether or not exam candidates have met the minimum educational and experience requirements. Definitions would also be added for "service recipient" and "surrogate."

Sec. 42.3(a) would be eliminated in that it merely paraphrases Sec. 4(e) of the Act (63 P.S. Sec. 1504(e)) and does not reflect the actual frequency of Board meetings. The Board indicates that it has been meeting approximately six times per year for more than a decade. Sec. 42.19 would be amended to provide that foreign licensure applicants must comply with NBCOT rather than AOTCB requirements. Reference would now be made to foreign "educated" rather than foreign "trained" applicants since the NBCOT uses the term "educated" in all information and instructions provided to foreign students. Sec. 42.14(a)(3) would be eliminated as unnecessary and potentially confusing.

Sec. 42.18, Licensure requirement, would be eliminated in that it merely duplicates the language of Sec. 6(a) of the Act (63 P.S. Sec. 1506(a)). Sec. 42.19 would be added to advise licensees that they are responsible for notifying the Board of any name or address changes, in writing, within ten days of the change. The last name and address on file with the Board would be deemed a licensee's official name and address for the purpose of service of process and other legal papers.

Sec. 42.24, Code of Ethics, would be amended to reflect revisions made by the American Occupational Therapy Association (AOTA) in 1994. The code would contain six principals, each of which contain at least three subparagraphs. These principals include obligations to demonstrate a concern for the well-being of the recipients of services, respect the rights of the recipients of services, achieve and continually maintain high standards of competence, comply with laws and regulations governing the practice of occupational therapy in the Commonwealth,

provide accurate information about occupational therapy services, and to treat colleagues and other professionals with fairness, discretion and integrity.

Sexual harassment would be added to Sec. 42.31 as an act of unprofessional conduct. Sections 42.32 and 42.33, relating to the complaint process and formal hearings, would be deleted in that they set forth procedures similar to those of the State Board of Medicine which were found unconstitutional by the Pennsylvania Supreme Court in the case of Lyness v. State Board of Medicine, 529 Pa. 535, 605 A.2d 1024 (1992). The Board does not believe that substitute regulations are necessary in that these procedures are adequately governed by Sec. 16(b) of the Act and the General Rules of Administrative Practice and Procedure, 1 Pa. Code Sec. 31.1 *et seq.*

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated. However, the Committee notes that in eliminating Subsection 42.3(a) in its entirety, the only remaining provision in that section would be current Subsection (b). Page 2 of the Annex does not show a (b) in brackets to indicate that subsection (b) would no longer be a subsection.

House of Representatives
Professional Licensure Committee
September 12, 2000