MARIO J. CIVERA, JR., MEMBER
HOUSE POST OFFICE BOX 202020
MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA 17120-2020
PHONE: (717) 787-3850
FAX: (717) 705-1851

232 LONG LANE
UPPER DARBY, PENNSYLVANIA 19082
PHONE: (610) 352-7800
FAX: (610) 352-3389

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

COMMITTEES

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

ORIGINAL: 2191

June 6, 2001

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 June 5, 2001, and voted to take no formal action on Regulation 16A-658 and Regulation 16A-6311 until final form regulations are promulgated.

In addition, the Committee voted to take no formal action on Regulation 16A-549 until final form regulations are promulgated. However, the Committee submits the following comments:

(1) The Committee notes a public comment forwarded to the Board by Richard B. Greene, R.Ph., regarding the term "Schedule II controlled narcotic substance" in current Sec. 27.20(a)(2)(i) and proposed Sec. 27.20 (a)(2)(iii). Mr. Greene indicates that corresponding DEA regulations will be applicable to newer, non-narcotic Schedule II controlled substances. In that regard, should the Board consider removing the word "narcotic" from these sections?

(2) The Committee notes another comment of Mr. Greene, that patients often self-administer their medications. In that regard, should the Board consider changing the phrase "which will be administered to" in order to more clearly indicate that self-administration is permitted?

(3) In proposed Sec. 27.20(a)(2)(iii), the Committee recommends that the term "hospice patient" be changed to "patient in a hospice."

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

Sincerely,

Mario J. Civera

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures
cc: James J. Irrgang, Chairperson
State Board of Physical Therapy
Alex M. Siegel, J.D., Ph.D., Chairman
State Board of Psychology
Michael A. Podgurski, R.Ph., Chairman
State Board of Pharmacy
Honorable Kim H. Pizzingrilli, Secretary of the Commonwealth
Department of State

Regulation 16A-549

State Board of Pharmacy

PROPOSAL: Regulation 16A-549 amends 49 PA Code, Chapter 27, regulations of the State Board of Pharmacy. The amendment deletes the list of the 13 specific reference materials that pharmacies are required to maintain in their reference libraries, and replaces it with language that would allow pharmacies to maintain references that are more appropriate to that pharmacy's area of practice. The amendment would also bring state regulations into accord with federal law regarding the use of facsimile prescriptions as the original prescription for Schedule II controlled substances.

The proposed Rulemaking was published in the Pennsylvania Bulletin on May 12, 2001. The Professional Licensure Committee has until July 2, 2001 to submit comments on the regulation.

ANALYSIS: Proposed Section 27.14(c)(14) would delete the list of 13 specific reference materials from which the current regulation requires a pharmacy to maintain the latest editions of at least two. The Board notes that many references are not listed in the current regulation which are more comprehensive and/or pertinent to current pharmacy practice or more appropriate to a pharmacy's particular area of practice. The Board states that the proposed regulation would eliminate the unnecessary cost of maintaining required, yet unused, references while allowing and encouraging pharmacies to maintain references more pertinent to their area of practice.

Pursuant to current Section 27.20, a pharmacist may fill a prescription for a Schedule II controlled substance received on a facsimile machine, if the original prescription signed by the medical practitioner is presented to the pharmacist prior to dispensing the drug. Currently, the original prescription does not have to be presented before dispensing if the prescription is for an "injectable" Schedule II controlled substance which will be administered in a patient's home or in a hospice, or if it is prescribed for a resident of a long-term care facility. The regulation is consistent with federal law regarding "injectable only" Schedule II drugs in a patient's home, and for all Schedule II drugs in a long term care facility. However, federal law also allows the practice for all Schedule II drugs in hospices. The Board proposes to amend this section to allow this additional exemption.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated. However, the Committee submits the following comments:

(1) The Committee notes a public comment forwarded to the Board by Richard B. Greene, R.Ph., regarding the term "Schedule II controlled narcotic substance" in current Sec. 27.20(a)(2)(i) and proposed Sec. 27.20(a)(2)(iii). Mr. Greene indicates that corresponding DEA regulations will be applicable to newer, non-narcotic Schedule II controlled substances. In that regard, should the Board consider removing the word "narcotic" from these sections?

(2) The Committee notes another comment of Mr. Greene, that patients often self-administer their medications. In that regard, should the Board consider changing the phrase "which will be administered to" in order to more clearly indicate that self-administration is permitted?

(3) In proposed Sec. 27.20(a)(2)(iii), the Committee recommends that the term "hospice patient" be changed to "patient in a hospice."

House of Representatives
Professional Licensure Committee
May 31, 2001

Regulation 16A-658

State Board of Physical Therapy

PROPOSAL: Regulation 16A-658 amends 49 PA Code, Chapter 40, regulations of the State Board of Physical Therapy. The amendment deletes references to the costs of licensure examination because those fees are set by the professional testing organizations and not by the Board.

The proposed Rulemaking was published in the Pennsylvania Bulletin on May 5, 2001. The Professional Licensure Committee has until June 25, 2001 to submit comments on the regulation.

ANALYSIS: The Board proposes to amend Section 40.5, the Board's schedule of fees, by deleting references to the fees for the licensure examinations for physical therapists, athletic trainers and physical therapist assistants. These fees are currently $345, $83.75 and $330 respectively. The Board indicates that over the past several years, national uniform examinations have been developed for every category of license the Board issues. The fees for the examinations are established by the national examiners and communicated directly to applicants. Applicants pay the examination fees directly to the national examiners. Since the fees are not set by the Board, it is impractical for the Board to continue to reference the fees in its regulations.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated.

House of Representatives
Professional Licensure Committee
May 30, 2001

Regulation 16A-6311

State Board of Psychology

PROPOSAL: Regulation 16A-6311 amends 49 PA Code, Chapter 41, regulations of the State Board of Psychology. The amendment deletes references to the costs of licensure examination because those fees are set by the professional testing organizations and not by the Board.

The proposed Rulemaking was published in the Pennsylvania Bulletin on May 5, 2001. The Professional Licensure Committee has until June 25, 2001 to submit comments on the regulation.

ANALYSIS: The Board proposes to amend Section 41.12, the Board's schedule of fees, by deleting references to the fees for the national and state licensure examinations, and the examination administration fee. These fees are currently $350, $42 and $45 respectively. The Board indicates that over the past several years, national uniform examinations have been developed for every category of license the Board issues. The fees for the examinations are established by the national examiners and communicated directly to applicants. Applicants pay the examination fees directly to the national examiners. Since the fees are not set by the Board, it is impractical for the Board to continue to reference the fees in its regulations.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee take no formal action until final form regulations are promulgated.

House of Representatives
Professional Licensure Committee
May 30, 2001