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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 January 22, 2002.

The Committee voted to take no formal action on Regulation 16A-6310, State Board of Psychology, until final form regulations are promulgated. However, the Committee submits the following comments:

- (1) In explaining the proposed amendments for Section 41.42, the Board states that current Sec. 41.42(a) contains the examination requirements for applicants who fail the examination two times. However, current Sec. 41.42 actually reads "After first time failure..." and would appear to pertain to applicants who have failed the examination one time.
- (2) The Board states that since the requirements of Secs. 41.42(a) and (b) are similar, the proposed amendments would consolidate the reexamination requirements into subsection (a). However, as proposed, subsection (a) still refers only to "after first-time failure," and procedures for reexamination after subsequent failures are not mentioned.
- (3) Sec. 41.42(a) provides that the applicant pay the reapplication fee specified in Sec. 41.12. However, there are two reapplication fees listed in that section; a \$20 fee for a first time failure, and a \$90 fee for subsequent failures. The Committee recommends that Sec. 41.42 specify which fee is to be paid.
- (4) The Committee notes that references to examination fees in Secs. 41.42(a) and (b) were also deleted in the Board's Final Rulemaking package 16A-6311.

The Committee also voted to take no formal action on Regulation 16A-5115, State Board of Nursing, until final form regulations are promulgated. However, the Committee submits the following comments:



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

January 22, 2002

COMMITTEES

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

RECEIVED
COMMISSIONER OF REVENUE
JAN 23 2002
10:11 AM

- (1) Proposed Sec. 21.145(b)(3) requires an LPN to both "question" any prescriptive order which is perceived as unsafe or contraindicated for the patient or which is not clear, and to "raise the issue" with the ordering practitioner or other responsible person. The Committee requests an explanation as to whom the LPN is to question regarding a perceived unsafe prescriptive order and the manner in which the LPN is to raise the issue.
- (2) Proposed Section 21.145(b)(5) relates to the transcribing of the oral order. The proposed subsection deletes the requirement that the countersignature of the physician shall be obtained in accordance with applicable regulations of the Department of Health governing the licensed facility. The Committee is requesting an explanation as to why this requirement has been deleted.
- (3) The Committee expressed serious concern as to the training and qualifications of the LPN's to accept verbal orders. Specifically, the Committee questions whether the LPN curricula emphasizes critical thinking skills, a necessary component in the acceptance of verbal orders. While the Board has concluded that the LPN's currently receive adequate instruction in critical thinking skills, the Committee is requesting specific information on which this conclusion is based. The Committee is also requesting information which provided the basis for the Board to conclude that, "...the Board found that practical nursing education programs in Pennsylvania gave instruction in pharmacology to practical nursing students which was the same as or similar to that received by professional nursing students."
- (4) The Committee questioned whether the acceptance of oral orders could be limited to long term care facilities. The Board notes in the Preamble that, "...in long term care facilities with a census of 59 and under, an LPN may be the only licensed nurse on the premises during the night shifts." The Committee questions whether the same staffing concerns exist in hospitals and ambulatory surgical facilities. Therefore, the Committee is requesting the Board to evaluate a limited authority for LPN's to accept oral orders in long term care facilities but not in hospitals and ambulatory surgical facilities.

In addition, the Committee voted to take no formal action on Regulation 16A-4610, State Board of Dentistry, until final form regulations are promulgated. However, the Committee submits the following comments:

- (1) Although office inspections and clinical evaluations have been added as requirements for securing unrestricted and restricted permit I permits, it is unclear as to whether or not these requirements are intended to apply to all permit holders or just first time applicants. The Committee recommends that the proposal be clarified to apply to all holders of these two types of permits, and that a date be established by which current permit holders be required to undergo office inspections and clinical evaluations as a condition of permit renewal.
- (2) The proposal makes clinical evaluations a part of the office inspection. This would appear to exempt permit holders who do not maintain their own offices from the clinical evaluation requirement. The Committee recommends that the proposal be clarified to require all permit holders to undergo clinical evaluations.

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
Page 3
January 22, 2002

- (3) The proposal requires permit holders to obtain "signed patient consent." The Committee recommends that this be changed to "written informed consent of a patient," and in the case of a minor patient, that the consent be obtained from the minor's parent or guardian.
- (4) The Committee notes that Certified Registered Nurse Anesthetists are not identified in Sec. 33.341(a)(3) as being authorized to administer anesthesia in the offices of non-permit holders, but are included in Sec. 33.341(a)(4), which also pertains to the administration of anesthesia in non-permit holder offices. The Committee requests an explanation for this apparent discrepancy.

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

Sincerely,



Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures

cc: Alex M. Siegel, J.D., Ph.D., Chairman
State Board of Psychology
K. Stephen Anderson, CRNA, Chairperson
State Board of Nursing
Norbert O. Gannon, D.D.S., Chairman
State Board of Dentistry
Honorable Kim H. Pizzigrilli, Secretary of the Commonwealth
Department of State

REGULATION 16A-5115
PROPOSED
2001-12-01

Regulation 16A-5115

State Board of Nursing

PROPOSAL: Regulation 16A-5115 amends 49 PA Code, Chapter 21, regulations of the State Board of Nursing. The amendments would authorize licensed practical nurses (LPNs) to accept oral prescription orders for medication and therapeutic treatment. Currently, LPNs are only permitted to accept written prescription orders unless urgent circumstances exist.

The proposed Rulemaking was published in the Pennsylvania Bulletin on December 1, 2001. The Professional Licensure Committee has until January 22, 2002 to submit comments on the regulation.

ANALYSIS: Sec. 21.14, Administration of drugs, would be amended to clarify that LPNs are authorized to administer medications to patients in accordance with Sec. 21.145(b). Reference to "a licensed doctor of the healing arts" as the sole prescribers of drugs would be deleted in that section since certified registered nurse practitioners (CRNPs) are also authorized to prescribe.

Sec. 21.145(b) would be amended to allow LPNs to accept oral prescription orders if four conditions are met. These conditions are that the practitioner issuing the oral order is authorized by law and by the facility policy to issue oral orders; the LPN has received instruction and training in accepting an oral prescription or order; the policy of the facility permits an LPN to accept an oral prescription or order; and, the regulations governing the facility permit an LPN to accept an oral prescription or order.

An LPN would be required to question any prescription or order which is perceived as unsafe or contraindicated for the patient or which is not clear. If the prescription appears unsafe, the LPN would be required to raise the issue with the ordering practitioner or other responsible person. LPNs would be prohibited from accepting oral prescriptions or orders which are not within the scope of LPN functions or which the LPN does not understand.

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) Proposed Sec. 21.145(b)(3) requires an LPN to both "question" any prescriptive order which is perceived as unsafe or contraindicated for the patient or which is not clear, and to "raise the issue" with the ordering practitioner or other responsible person. The Committee requests an explanation as to whom the LPN is to question regarding a perceived unsafe prescriptive order and the manner in which the LPN is to raise the issue.
- (2) Proposed Section 21.145(b)(5) relates to the transcribing of the oral order. The proposed subsection deletes the requirement that the countersignature of the physician shall be obtained in accordance with applicable regulations of the

Department of Health governing the licensed facility. The Committee is requesting an explanation as to why this requirement has been deleted.

- (3) The Committee expressed serious concern as to the training and qualifications of the LPN's to accept verbal orders. Specifically, the Committee questions whether the LPN curricula emphasizes critical thinking skills, a necessary component in the acceptance of verbal orders. While the Board has concluded that the LPN's currently receive adequate instruction in critical thinking skills, the Committee is requesting specific information on which this conclusion is based. The Committee is also requesting information which provided the basis for the Board to conclude that, "...the Board found that practical nursing education programs in Pennsylvania gave instruction in pharmacology to practical nursing students which was the same as or similar to that received by professional nursing students."
- (4) The Committee questioned whether the acceptance of oral orders could be limited to long term care facilities. The Board notes in the Preamble that, "...in long term care facilities with a census of 59 and under, an LPN may be the only licensed nurse on the premises during the night shifts." The Committee questions whether the same staffing concerns exist in hospitals and ambulatory surgical facilities. Therefore, the Committee is requesting the Board to evaluate a limited authority for LPN's to accept oral orders in long term care facilities but not in hospitals and ambulatory surgical facilities.

House of Representatives
Professional Licensure Committee
January 9, 2002