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

February 1, 2002

Alex M. Siegel, J.D., Ph.D., Chairman
State Board of Psychology
116 Pine Street
Harrisburg, PA 17105

Re: Regulation #16A-6310 (IRRC #2232)
State Board of Psychology
Computerized Examinations

Dear Chairman Siegel:

Enclosed are our Comments. They will soon be available on our website at 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 my office at 783-5417.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Nyce".

Robert E. Nyce
Executive Director

wbg

Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee
Honorable Clarence D. Bell, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee

Comments of the Independent Regulatory Review Commission

on

State Board of Psychology Regulation No. 16A-6310

Computerized Examinations

February 1, 2002

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which have not been met. The State Board of Psychology (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by December 31, 2003, the regulation will be deemed withdrawn.

Section 41.42. Reexamination. - Consistency with statute; Clarity.

Statutory distinction between second examination and subsequent examinations

In the Preamble, the Board states, "Applicants from this Commonwealth, however, are precluded from taking these National portions of the examination as frequently due to limitations in current § 41.42." However, the limitations in current Section 41.42 are consistent with the Professional Psychologists Practice Act (Act). Specifically, 63 P.S. § 1206(c) states:

In case of failure at any examination, the applicant shall have, after the expiration of six months and within two years, the privilege of a second examination by the board with the payment of an additional fee. The board may adopt regulations governing the eligibility of applicants who have failed to pass two examinations in order to be admitted to subsequent examinations.

The amended regulation, as written, does not reflect these statutory time limits for a second examination. The Board should explain its authority to use time limits other than those specified in 63 P.S. § 1206(c).

Reapplication requirements after failure of a second examination

Under the existing regulation, Subsection (a) addresses reapplication requirements "after first time failure" of an examination. Existing Subsection (b) addresses reapplication requirements "after two unsuccessful examinations." The Preamble expresses the intent to consolidate these subsections since the reexamination requirements are substantially similar. As amended, Subsections (a) and (b) would state:

- (a) After first-time failure, candidates may be reexamined, upon filing an updated application and paying the reapplication fee specified in § 41.21 (relating to fees).
- (b) Applicants may reapply to take any portion of the examination, but shall satisfy conditions prevailing at the time of the reapplication, including administrative, education and experience requirements.

There are three concerns.

First, the amended regulation appears to only address requirements “after first-time failure.” What are the reapplication requirements after a subsequent failure?

The second concern is related to the first concern. Subsection (a) would state, “After first-time failure, candidates may be reexamined upon...paying the reapplication fee specified in Section 41.12 (relating to fees).” This would be the \$20 fee for “Reapplication fee - first time examination failure.” However, Section 41.12 also contains a \$90 fee for “Reapplication fee - subsequent examination failure.” When would an applicant be required to pay the \$90 fee relating to subsequent examination failure?

Finally, we note Subsection (a) should reference fees in Section 41.12, not 41.21.