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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

May 7, 2002

COMMITTEES

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

John R. McGinley, Jr., Chairman
Independent Regulatory Review Commission
14th Floor, Harrisburg 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 May 7, 2002. The committee voted to approve Regulation 16A-656, State Board of Physical Therapy; Regulation 16A-5210, State Board of Optometry; and Regulation 16A-662, Navigation Commission for the Delaware River and its Navigable Tributaries.

In addition, the committee voted to take no formal action on Regulation 16A-416, State Architects Licensure Board; and Regulation 16A-539, State Board of Osteopathic Medicine, until final form regulations are promulgated.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Mario J. Civera".

Mario J. Civera, Chairman
House Professional Licensure Committee

MJC/sms
Enclosures

cc: James J. Irrgang, Chairperson
State Board of Physical Therapy
Steven Reto, O.D., Chairperson
State Board of Optometry
C. Michael Weaver
Acting Secretary of the Commonwealth and
Chairperson of Navigation Commission for the
Delaware River and its Navigable Tributaries
Ann Shepard Houston, President
State Architects Licensure Board
Daniel D. Dowd, Jr., D.O., Chairperson
State Board of Osteopathic Medicine

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MAY - 8 PM 3:45
INDEPENDENT REGULATORY REVIEW COMMISSION

RECEIVED
2002/MAY-8 PM 3:43
LEGISLATIVE REVIEW COMMISSION

Regulation 16A-5210

State Board of Optometry

PROPOSAL: Regulation 16A-5210 amends 49 PA Code, Chapter 23, regulations of the State Board of Optometry. The amendment deletes Section 23.201, pertaining to qualifications for certifications, in light of a ruling by the Commonwealth Court of Pennsylvania that the section is invalid and unenforceable.

The proposed Rulemaking was omitted and Regulation 16A-5210 was delivered to the Professional Licensure Committee on May 1, 2002 as an Order of Final Rulemaking. The Professional Licensure Committee has until May 21, 2002 to approve or disapprove the regulation.

ANALYSIS: Section 23.201 sets forth the criteria for an optometrist to be certified to prescribe and administer pharmaceutical agents. In the case of Rand v. Pennsylvania State Board of Optometry, 762 A.2d 392 (Pa.Cmwlth. 2000), the Commonwealth Court held the section to be invalid, and instructed the Board to apply the criteria provided in Section 4.1 of the Optometric Practice and Licensure Act, 63 P.S. Sec. 244.4a. Accordingly, the Board proposes to delete Sec. 23.201 and reference Sec. 4.1 of the Act in Sec. 23.202, which pertains to application procedures.

RECOMMENDATIONS: It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives
Professional Licensure Committee
May 2, 2002