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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 February 11, 2003.

The Committee voted to approve Regulation 16A-696, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

The Committee voted to take no formal action on Regulation 16A-5117, State Board of Nursing, until final form regulations are promulgated. However, the Committee submits the following comments:

- (1) The Committee requests an explanation as to why, pursuant to Sec. 21.334(g), 50 minutes is counted as a continuing education hour, rather than 60 minutes.
- (2) The Committee questions whether or not a limit should be placed on the number of credit hours a CRNP may obtain through correspondence courses, taped study courses and other independent study courses.

The Committee voted to take no formal action on Regulation 16A-446, State Board of Podiatry, until final form regulations are promulgated. However, the Committee submits the following comments:

- (1) Although primary responsibility rests with licensees to documents continuing education compliance, the Committee suggests that the Board continue to require course providers to authenticate attendance and retain documentation of attendance for a period of time equal to that required of licensees. The Committee notes that Dental Board regulations require both licensees and course providers to retain documentation for a period of four years. This provides a backup means to authenticate attendance should a licensee's documentation be lost or come into question.
- (2) The Committee notes that the exposure draft of the proposed amendments included courses given by the American Medical Association and the American Osteopathic Association as being preapproved. Reference to these organizations was withdrawn after objection by the Pennsylvania Podiatric Medical Association (PPMA). The Committee requests an explanation as to the grounds for the PPMA's objection, and questions why courses offered by the excluded associations cannot be of some educational value to licensees.



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

February 12, 2003

COMMITTEES

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

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- (3) Section 29.61(a)(2) allows a maximum of 10 hours of continuing education through computer/internet, magazine or journal article courses. The Committee requests an explanation as to how continuing education is accomplished through those means.

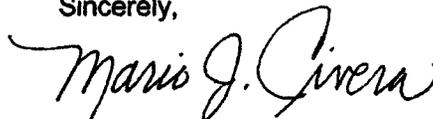
The Committee voted to take no action on Regulation 16A-4613, State Board of Dentistry, until final form regulations are promulgated. However, the Committee submits the following comments:

- (1) The Committee recommends that the Board adopt a similar approach to the other licensing boards that have promulgated regulations pertaining to sexual misconduct. These boards have defined the prohibited conduct with much greater specificity in the definitions sections of their regulations. The definitions of sexual exploitation and sexual behavior proposed by the Board are vague and open to interpretation.
- (2) The Committee suggests that the Board address the issue of what is prohibited or acceptable behavior between licensees and former patients, as well as licensees and current "significant others" who become patients.

The Committee voted to take no formal action on Regulation 16A-4612, State Board of Dentistry, until final form regulations are promulgated. However, the Committee encourages the Board to seek bids for the EFDA examination from the widest possible array of sources, including the State of Ohio, which already examines and certifies EFDAs.

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: Thomas F. Matta, Ph.D., Chairperson
State Board of Social Workers, Marriage and Family
Therapists and Professional Counselors
K. Stephen Anderson, CRNA, Chairperson
State Board of Nursing
Jeffrey S. Gerland, D.P.M., Chairman
State Board of Podiatry
Veasey B. Cullen, Jr., D.M.D., Chairman
State Board of Dentistry
Honorable Benjamin Ramos, Acting Secretary of the Commonwealth
Department of State

Regulation 16A-4613

State Board of Dentistry

PROPOSAL: Regulation 16A-4613 amends 49 PA Code, Chapter 33, regulations of the State Board of Dentistry. The amendment adds a section pertaining to sexual misconduct.

The proposed Rulemaking was published in the Pennsylvania Bulletin on October 26, 2002. The proposal was resubmitted to the Professional Licensure Committee on January 29, 2003. The Committee has until February 13, 2003 to submit comments on the regulation.

ANALYSIS: The Board proposes to add Sec. 33.211a, Sexual Misconduct, to protect patients by providing guidance to licensees and the public as to prohibited conduct relating to sexual contact between licensees and patients. The definition provided for "sexual exploitation" is any sexual behavior, with a current patient, that uses trust, knowledge, emotions, or influence derived from the professional relationship. "Sexual behavior" is defined as any sexual conduct that has no diagnostic or therapeutic purpose, including works, actions, or any combination thereof which are, or are intended to be, sexual in nature, or which may be construed by a reasonable person as sexual in nature.

The proposal would prohibit sexual exploitation by a licensee of a current patient. Any violations would constitute unprofessional conduct and subject a licensee to disciplinary action. Patient consent to the prohibited conduct would not constitute a defense. Licensees who engage in the prohibited conduct would not be eligible for placement into an impaired professional program in lieu of disciplinary action. The regulation would not apply to the spouse or equivalent domestic partner of a licensee.

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 recommends that the Board adopt a similar approach to the other licensing boards that have promulgated regulations pertaining to sexual misconduct. These boards have defined the prohibited conduct with much greater specificity in the definitions sections of their regulations. The definitions of sexual exploitation and sexual behavior proposed by the Board are vague and open to interpretation.
2. The Committee suggests that the Board address the issue of what is prohibited or acceptable behavior between licensees and former patients, as well as licensees and current "significant others" who become patients.

House of Representatives
Professional Licensure Committee
February 6, 2003