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**INDEPENDENT REGULATORY REVIEW COMMISSION  
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February 28, 2003

Jeffrey S. Gerland, DPM, Chairman  
State Board of Podiatry  
116 Pine Street  
Harrisburg, PA 17105

Re: Regulation #16A-446 (IRRC #2316)  
State Board of Podiatry  
Continuing Education

Dear Chairman Gerland:

Enclosed are the Commission's Comments that include objections and recommendations for consideration when you prepare the final version of this regulation. These Comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The Comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce  
Executive Director  
evp  
Enclosure

cc: Honorable Mario J. Civera, Jr., Majority Chairman, House Professional Licensure Committee  
Honorable William W. Rieger, Democratic Chairman, House Professional Licensure Committee  
Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Benjamin Ramos, Acting Secretary, Department of State

# **Comments of the Independent Regulatory Review Commission**

**on**

## **State Board of Podiatry Regulation No. 16A-446**

### **Continuing Education**

**February 28, 2003**

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 Podiatry (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

#### **1. Section 29.60. Definitions. – Clarity.**

“Clock hour” is defined as, “Educational conferences will be approved for continuing education credit at the rate of one credit per 60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.” The phrase, “Educational conferences will be approved for continuing education credit at the rate of one credit per 60 minutes” is a substantive provision. Substantive provisions in a definition are not enforceable. Therefore, the Board should move this provision of the definition to Section 29.62, relating to length of time of education conferences. We recommend that the definition of “clock hour” be changed to “60 minutes of instruction, exclusive of coffee breaks, lunches, visits to exhibits and the like.”

#### **2. Section 29.61. Requirements for biennial renewal and eligibility to conduct educational conferences. – Clarity.**

Subsection (c) uses the phrase “forms approved by the Board.” The form name or number should be included in the final-form regulation. The regulation should specify how and where an applicant could obtain the form. If the form is available for downloading from the Board’s website, this information should be included in the regulation.

Subsection (d) requires a licensee to retain documentation of completion of the prescribed number of clock hours for five years. This requirement is vague. The final-form regulation should clarify if the five-year requirement is specific to each course completed or to each biennial period.

#### **3. Section 29.63a. Preapproved course provider. – Reasonableness; Clarity.**

This section identifies courses within the scope of podiatry that are offered or approved by the Council on Podiatric Medical Education are preapproved and will be accepted for continuing

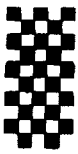
education credit. In its comments on the proposed regulation dated February 12, 2003, the House Professional Licensure Committee questioned why courses given by the American Medical Association and American Osteopathic Association were not also listed as preapproved. We share the concerns raised by the House Professional Licensure Committee and request an explanation of why these organizations were not included as pre-approved course providers for courses relevant to podiatric medicine.

**4. Section 29.68. Continuing education exemptions. – Statutory authority; Legislative intent; Reasonableness; Protection of public health, safety and welfare.**

This section states, in part, that the Board, "...may waive all or a portion of the continuing education requirement for biennial renewal upon request of a licensee for serious illness or other demonstrated hardship." We question the Board's statutory authority to provide this waiver. Section 9.1 of the Podiatry Practice Act (63 P.S. § 42.9a) requires that an applicant for renewal registration furnish the Board with satisfactory evidence of attending the required hours of continuing education courses. There is no provision for exemption or waiver. If an applicant does not provide satisfactory evidence, then he or she cannot receive renewal for the next biennial licensing period.

If the Board demonstrates that it has the statutory authority to grant waivers, we question the reasonableness of allowing a podiatrist to practice without the benefit of continuing education. In addition, the availability of continuing education from a multitude of sources, as provided in Section 29.61(a), ensures that podiatrists have ample opportunity to meet their continuing education requirements.

The comment and response portion of the final-form regulation should provide the specific statutory authority that allows the Board to grant a waiver for serious illness or demonstrated hardship. It should also explain how the health and safety of the public is adequately protected when podiatrists are allowed to practice without the benefit of continuing education. In the alternative, this provision should be deleted.



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# INDEPENDENT REGULATORY REVIEW COMMISSION

2/28/03  
10:39 AM

**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 7-0251

**From:** Kristine M. Shomper  
Administrative Officer  
**Company:** Independent Regulatory Review  
Commission  
**Phone:** (717) 783-5419 or (717) 783-5417  
**Fax:** (717) 783-2664

**Date:** February 28, 2003  
**# of Pages:** 4

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Podiatry's regulation #16A-448 (#2316). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Suzanne Hoy* Date: 2/28/03