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Original: 2324

COMMITTEES

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

House of Representatives commonwealth of pennsylvania harrisburg

April 28, 2003

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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 in my letter dated April 17, 2003, I inadvertently listed Regulation 16A-529 as approved when the Committee actually voted to take no formal action until the regulation is submitted in final form.

I apologize for this error and hope this has not been an inconvenience to you.

Sincerely, ano

Mario J. Civera, Chairman House Professional Licensure Committee

MJC/sms

cc: Steven J. Reto, O.D., Chairperson State Board of Optometry The Honorable Pedro A. Cortes Acting Secretary of the Commonwealth MARIO J. CIVERA, JR., MEMBER HOUSE POST OFFICE BOX 202020 MAIN CAPITOL BUILDING HARRISBURG, PENNSYLVANIA 17120-2020 PHONE: (717) 787-3850 FAX: (717) 705-1851

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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 April 15, 2003.

The Committee voted to approve Regulation 16A-529, State Board of Optometry; and Regulation 16A-7013, State Board of Certified Real Estate Appraisers.

The Committee voted to take no formal action on Regulation 16A-417, State Architects Licensure Board, until final form regulations are promulgated.

The Committee voted to take no formal action on Regulation 16A-528, State Board of Optometry, until final form regulations are promulgated, however, the Committee submits the following comments:

1. In promulgating the proposed definitions for Sec. 23.1, the Board references Sec. 3(a)(2.1) of the Optometric Practice and Licensure Act which gives the Board the authority "to determine, in accordance with optometric education, training, professional competence and skill, the means and methods for the examination, diagnosis and treatment of conditions of the visual system. However, the means and methods proposed by the Board make no reference to the appropriate optometric education. training, professional competence and skill required to perform these services, but would authorize any licensee of the Board to perform these services, regardless of his or her level of education and training. At least some of the services listed by the Board would appear to be "cutting edge," and although perhaps within the expertise of more recently educated and trained licensees, but perhaps not within the expertise of licensees who received their education prior to the time these services have come to be employed within the optometric field. Additionally, the Committee notes that at a public hearing held on July 12, 2001, to review the draft version of the regulations, there was considerable testimony to the effect that many of the listed services were not appropriate for optometric practice. The Committee requests a detailed explanation of the training of optometrists in order to perform the 14 services listed in the proposed regulations, as well as an explanation as to how long each service has been part of optometric practice. Additionally, the Committee requests information as to the extent



## COMMITTEES

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

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John R. McGinley, Jr., Chairman Page 2 April 17, 2003

these services are considered to be within the scope of optometric practice in other states.

- 2. Proposed Sec. 23.1(3) would appear to authorize optometric offices as facilities in which anesthesia may be administered.
- 3. Proposed Sec. 23.1(8) would appear to limit low vision rehabilitation exclusively to the practice of optometry. The Committee fears this would have a negative impact on unlicensed individuals who are appropriately engaged in the practice of low vision rehabilitation.
- 4. The Committee notes the comments submitted by the Pennsylvania Medical Society (PMS) regarding proposed Sec. 23.1(6). PMS recommends that the use of lasers be limited to diagnostic imaging purposes.
- 5. The Committee notes the comments of the PMS regarding proposed Sec. 23.1(9). PMS recommends that the section be deleted or at least modified to include only diagnostic and non-surgical treatment of the lacrimal system.
- The Committee notes the comments submitted by the PMS regarding proposed Sec. 23.1(14). The Committee questions why the practice of optometry should include all levels of evaluation and management services, and not just those levels of evaluation and management services pertaining to the visual system.

In addition, the Committee voted to take no formal action on Regulation 16A-605, State Board of Vehicle Manufacturers, Dealers and Salespersons, until final form regulations are promulgated, however, the Committee submits the following comments:

- The Committee questions the placement of the proposed regulation in the "General Provisions" section of the Board's regulations. The Committee suggests that since the subject matter of the proposed regulation involves dealerships, the "Dealership License" section would be more appropriate.
- 2. The Committee questions the Board's authority to promulgate proposed Sec. 19.5c. The display of a single vehicle constitutes advertising, an activity that is included in the definition of "buying, selling or exchanging" set forth in the Board of Vehicles Act. Except for limited circumstances set forth in the Act, the selling of a vehicle must occur on the dealer's business premises. Does the Board have the authority to create an exemption for one-vehicle displays?
- 3. The Committee suggests that should the Board have the authority to promulgate Sec. 19.5c, then it should include a provision to require the dealer to place a sign at the display location, indicating that the vehicle is for display only, that transactions or sales discussions cannot occur at the site, and referring the public to the relevant dealer.

Finally, the Committee voted to take no formal action on Regulation 16A-659, State Board of Physical Therapy, until final form regulations are promulgated, however, the Committee submits the following comments:

 Sec. 40.11 would be amended to require applicants for licensure by examination, within 6 months of the effective date of the regulation, to have graduated from a physical therapy program accredited by CAPTE. The Board indicates that some physical therapy programs in Pennsylvania are in the process of obtaining CAPTE accreditation. Accordingly, is a 6-month grandfathering period a sufficient amount of time for applicants currently enrolled in programs that have not yet received CAPTE accreditation? John R. McGinley, Jr., Chairman Page 3 April 17, 2003

- 2. Regarding proposed Sec. 40.51(b), the Committee questions whether the Board has the authority to identify the "transdermal administration of drugs" as properly with the scope of physical therapy practice. Additionally, the section would require any unused medications to be disposed of by the physical therapist or returned to the patient. In that case, why is there a reference to the proper storage of drugs?
- 3. The Board indicates that it considered but decided not to include language prohibiting the delegation of "wound care" to physical therapy assistants. The Committee questions whether the Board considers wound care to be a properly delegable service to be performed by physical therapy assistants. The Committee requests a detailed explanation as to the education and training of physical therapy assistants, and particularly as it pertains to physical therapy assistant qualifications to provide wound care.
- 4. The Committee questions why the work "district" was deleted from Sec. 40.16(a)(1) when the District of Columbia is referred to in that section.
- 5. Regarding Sec. 40.11(2), is the requirement of 120 semester hours a requirement of CAPTE, and if so, are all Pennsylvania physical therapy educational programs awarding a 120-semester hour degree? Additionally, should this section not refer to "applicants" rather than "physical therapists?"
- 6. Are the services listed in proposed Sec. 40.53(e) duplicative of some of the services listed in current Sec. 40.53(a)?

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: Steven J. Reto, O.D., Chairperson State Board of Optometry George D. Sinclair, Chairman State Board of Certified Real Estate Appraisers Ann Shepard Houston, RA, President State Architects Licensure Board Edward J. Cernic, Jr., Chairperson State Board of Vehicle Manufacturers, Dealers and Salespersons James J. Irrgang, Chairperson State Board of Physical Therapy The Honorable Pedro A. Cortes Acting Secretary of the Commonwealth



## Regulation 16A-529

## **State Board of Optometry**

**PROPOSAL:** Regulation 16A-529 amends 49 PA Code, Chapter 23, regulations of the State Board of Optometry. The amendments make revisions and additions to the Board's regulations pertaining to continuing education, particularly in regard to continuing education in pharmaceutical agents for therapeutic purposes.

The proposed Rulemaking was published in the Pennsylvania Bulletin on March 1, 2003.

<u>ANALYSIS</u>: The Board proposes to amend Sec. 23.82(a) of its regulations by deleting references to Sec. 23.201, which has been deleted, and 23.202, which has been amended, and replacing them with references to Sec. 4.1(a)(2) of the Optometric Practice and Licensure Act. Sec. 23.82(b) would be amended to clarify that persons failing to comply with the biennial CE requirement are subject to discipline pursuant to Sec. 7(e) of the Act, which affords notice and hearing pursuant to the Administrative Agency Law. Sec. 23.82c would be amended to clarify that licensees seeking a waiver of the CE requirement must notify the Board in writing prior to the end of the biennial renewal period for which the waiver is sought.

Optometrists who hold therapeutic certifications are required to complete at least six hours of CE in the administration and prescription of pharmaceutical agents for therapeutic purposes. The Board proposes to add Sec. 23.83(b) to clarify that these courses must concern the treatment and management of ocular or oculo-systemic disease. Board approved therapeutic content courses will be designated with a course number with the suffix "T". If a pre-approved course has not received a specific course number from the Board, course sponsors must indicate on the Certificate of attendance that the course is offered to meet the requirements for certification.

Sec. 23.87 sets forth the information which licensees must include when reporting CE credit hours to the Board, including the requirement that applicants for license or license renewal provide a signed statement certifying that they have met the CE requirements set forth in Sec. 5(b) of the act. Licensees claiming credit for courses to meet the requirements for certification in the prescription and administration of pharmaceutical agents for therapeutic purposes must provide the Board with the course number.

**<u>RECOMMENDATIONS</u>**: It is recommended that the Professional Licensure Committee approve the regulation.

House of Representatives Professional Licensure Committee April 7, 2003