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**INDEPENDENT REGULATORY REVIEW COMMISSION  
 COMMONWEALTH OF PENNSYLVANIA  
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June 4, 2003

James J. Irrgang, Chairperson  
 State Board of Physical Therapy  
 2601 North 3rd Street  
 Harrisburg, PA 17110

Re: Regulation #16A-659 (IRRC #2327)  
 State Board of Physical Therapy  
 General Provisions

Dear Chairperson Irrgang:

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 Thomas P. Gannon, 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 Pedro A. Cortes, Secretary, Department of State

# Comments of the Independent Regulatory Review Commission

on

## State Board of Physical Therapy Regulation No. 16A-659

### General Provisions

June 4, 2003

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Physical Therapy (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 5, 2003. 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regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.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 40.11. License by examination; requirements for examination. – Need; Clarity.**

*Paragraph (1)*

There is an inconsistency in this paragraph. The first sentence requires applicants for licensure by examination to complete “an accredited physical therapy course approved by the American Physical Therapy Association....” The second sentence requires an applicant to graduate from a Commission on Accreditation in Physical Therapy Education (CAPTE) accredited program. It is our understanding that the sole accrediting body for physical therapy programs is CAPTE. In the final-form regulation, the first sentence should be revised to reflect the CAPTE accreditation requirement.

*Paragraph (2)*

This paragraph requires a physical therapist (PT) to have a baccalaureate degree with at least 120 semester hours from an accredited institution. We question whether Subsection (2) is necessary, given that Paragraph (1) addresses the requirement to complete an accredited program. The Board should consider deleting this paragraph and including the semester hour requirement within Paragraph (1).

**2. Section 40.16. Licensure by endorsement. – Clarity.**

Subsection (b)(1) requires the applicant to submit “evidence” of authorization to practice without limitation in the country where the professional education occurred. The final-form regulation should specify what constitutes acceptable “evidence.”

**3. Section 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience. – Clarity.**

Subsections (1) through (4) require the applicant to submit “evidence” or “written proof” of meeting certain conditions to the Board. The final-form regulation should specify what constitutes “evidence” and “written proof.”

**4. Section 40.51. Scope of practice; physical therapists. – Clarity.**

Subsection (b) requires a PT to properly dispose of medication or return it to the patient. This subsection also requires drugs to be stored properly. The House Professional Licensure Committee (House Committee) questioned why the storage requirement is included in the regulation if the drugs are to be disposed of or returned to the patient. It is our understanding that this provision is intended to allow the PT to store the medication between treatment sessions, but to also require the PT to return the medication or dispose of it after the patient is discharged from treatment. The handling of medication should clearly be set forth in the final-form regulation.

**5. Section 40.53. Nondelegable activities; accountability. – Consistency with Statute; Need; Reasonableness; Clarity.**

*Subsection (b)*

Subsection (b)(7) defines “mobilization.” This definition, however, is not consistent with the corresponding definition in Act 27 of 2002 (63 P.S. § 1302). The final-form regulation should replace this definition with the statutory definition from Act 27.

Also, as published in the *Pennsylvania Bulletin*, Subsection (b)(7) states, “Mobilization is defined as....” To maintain parallel construction within Subsection (b), Paragraph (7) should be formatted as follows: “Mobilization. Mobilization is defined as....”

*Subsection (e)*

This subsection enumerates functions that a PT cannot delegate to a physical therapist assistant (PTA). We have three concerns.

First, Subsection (e) precludes a PT from delegating the performance of discharge summaries to a PTA. Some commentators have asserted that discharge summaries include objective data that PTAs are qualified to collect, while the interpretation of the data remains the responsibility of the PT. The Board’s existing regulations at 49 Pa. Code § 40.171(a)(4) authorize PTAs to perform “selected tests and measurements....” To the extent that certain tests and measurements are part of the discharge summary, it is reasonable to allow PTAs to collect this data for the PT’s evaluation. Therefore, this subsection should be revised to specify that the PT cannot delegate portions of a discharge summary that require a PT’s evaluation, interpretation or judgment, but may delegate “selected tests and measurements” consistent with Section 40.171(a)(4).

Second, the House Committee questioned if the services included in Subsection (e) are duplicative of some of the services in new Subsection (b). We agree that the services listed in Subsection (e) appear to overlap those in new Subsection (b). The Board should consider deleting Subsection (e) and including a comprehensive list of services in Subsection (b).

Finally, the preamble states that the Board considered precluding delegation of wound care to PTAs, but decided this is a properly delegable service. The House Committee requested an explanation of the education and training of PTAs regarding wound care. What type of wound care activities are PTAs qualified to perform? Are there aspects of wound care that only PTs are authorized to perform? If there are elements of wound care that a PT cannot delegate to a PTA, those elements should be included in the list of nondelegable activities.

## **6. Miscellaneous clarity issues.**

- The second sentence in Section 40.11(1) requires an applicant to have graduated from a CAPTE-accredited program “by” six months from the effective date of this proposed regulation. The Board has indicated that this provision was intended to provide a six-month lead-time for this requirement to take effect. The language in this subsection could more clearly reflect the Board’s intent by replacing the word “by” with “after.”
- In Section 40.16(a)(1), the House Committee questions why the word “district” is being deleted when the same section previously refers to the “District of Columbia.” Should “district” be reinserted in the final-form regulation?
- Section 40.16(a)(2) references “section 6(d)(2) of the act.” However, Section (d) has been deleted. Is the reference to the Physical Therapy Practice Act (Act) still necessary? If so, the citation should be updated to identify the appropriate section of the Act. If not, the sentence containing the citation should be deleted.
- In Section 40.22(b), it appears that the word “in” which appears after “or” and before “6 months” is unnecessary and should be deleted.



### Facsimile Cover Sheet

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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
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**To:** Suzanne Hoy  
**Agency:** Department of State  
Licensing Boards and Commissions  
**Phone:** 7-2628  
**Fax:** 783-0823  
**Date:** June 4, 2003  
**Pages:** 5

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the State Board of Physical Therapy regulation #16A-659 (IRRC #2327). 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: *Cynthia K. Montz* Date: 6/4/03